

**THE UNITED STATES NATIONAL COMMISSION ON  
LIBRARIES AND INFORMATION SCIENCE**

--

**HEARING ON KIDS AND THE INTERNET:  
THE PROMISE AND THE PERILS**

November 10, 1998 9:00 a.m.

The Freedom Forum  
1101 Wilson Boulevard  
Arlington, Virginia

MEMBERS PRESENT:

Chairperson Jeanne Simon  
Moderator Martha Gould, Vice Chair  
C. E. "Abe" Abramson  
Walter Anderson  
Rebecca Bingham  
Joan Challinor  
José-Marie Griffiths  
Frank Lucchino

STAFF: Robert Willard, NCLIS Executive Director

SPEAKERS:

Mr. Andrew Vachss, Attorney, Novelist, specializing in children's matters  
Mr. Larry Maxwell, U.S. Postal Service, Postal Inspection  
Mr. Kevin Higgins, Office of Attorney General, State of Nevada  
Ms. Toby Levin, Federal Trade Commission  
Ms. Deirdre Mulligan, Center for Democracy and Technology  
Mr. Bruce Watson, Enough is Enough  
Ms. Jan LaRue, Family Research Council  
Mr. David Burt, Filtering Facts  
Mr. C. Ray Ewick, Chief Officers of State Library Agencies  
Ms. Ann Symons, American Library Association  
Ms. Eleanor (Joey) Rodger, Urban Libraries Council  
Mr. Lawrence Ottinger, People for the American Way Foundation  
Mr. Gene Crick, Electronic Frontiers  
Ms. Heidi Borton, Librarian  
Ms. Karen Jo Gounaud, Family Friendly Libraries

## PROCEEDINGS

CHAIRPERSON SIMON: Good morning, everyone. I'm Jeanne Hurley Simon, the Chairperson of the U.S. and National Commission on Libraries Information Science, and I welcome you to this hearing this morning, the open hearing on kids and the Internet, the promise and the peril. I would like to take a few minutes to introduce our commissioners and our executive director. On my right is Martha Gould, who is the vice chair of the National Commission on Libraries and Information Science, retired director of the Washoe County Library, Reno, Nevada. Right, Martha?

MS. GOULD: Right. CHAIRPERSON SIMON: On my left is Rebecca Bingham, a national school library leader, a retired director of School Library Media Services for Jefferson County Public Schools, Louisville, Kentucky. Good morning, Rebecca.

MS. BINGHAM: Good morning.

CHAIRPERSON SIMON: José-Marie Griffiths, University of Michigan. 2

MS. GRIFFITHS: Good morning.

CHAIRPERSON SIMON: Mary Furlong is the commissioner we're waiting for. We only hope she will be able to walk in shortly. She is coming from California. Walter Anderson, where are you, Walter? Walter Anderson, editor and executive vice president of Parade Publications in New York City.

Frank Lucchino, over here on my right, is a self-described library zealot. Okay. A lawyer, controller. How many years controller now? 20 years controller of Allegheny County, Pennsylvania, and a trustee of the Carnegie Library of Pittsburgh.

Seated next to Frank is Joan Challinor of Washington, D.C., a historian and chair of the advisory committee of the Schlesinger Library on the History of Women in America at Radcliffe College. Good morning, Joan.

MS. CHALLINOR: Good morning.

CHAIRPERSON SIMON: Abe Abramson, a real estate broker and a library trustee from Missoula, Montana. How do you describe your dwelling place?

MR. ABRAMSON: Hub of five valleys.

CHAIRPERSON SIMON: On my left is our esteemed executive director, Robert Willard, a former director who assumed the onerous duties of executive director some months ago. We are glad he is in charge. I was hoping Charles

Oberbee would be here any minute. He is the chairman and CEO of the Freedom Forum. We owe him a debt of thanks for allowing us to use this beautiful conference room this morning. I'm sure if the sun were shining, we could see a lot more of Washington, D.C., but we are grateful for the surroundings and the ambiance.

The National Commission, for those of you who are unaware of our esteemed background, was established in 1970, as a permanent independent agency of the Federal government, charged with advising the executive and the legislative branches on national library and information policies and plans. It's because of this important charge that we are here today holding this very, very important hearing. The hearing today is to deal with complex issues rising from the intersection of an astounding technological development with our fundamental commitment to the well-being of our children. This technological development is of course the emergence of the Internet as a means to make information from all over the world as well as personal direct contact with individuals worldwide easily available on inexpensive computer work stations.

The Commission, with its statutory mandate to advance the library and information needs of the American people, welcomes the advance of this technology. Through our surveys over the past four years, we've chronicled the growing availability of Internet access to library patrons. We've supported Federal programs such as the Universal Services Fund or the E Rate program well known to you to continue to expand access to the Internet through schools and libraries.

We recognize the unprecedented value of the Internet, and the seemingly limitless information available through the worldwide web. Never before have students of all ages been able to gain so much access to information to support their studies, but we also recognize what commissioner Martha Gould has referred to as the dark side of the Internet.

Here's where the ability to interact one on one and anonymously opens the door to pedophiles to prey on unsuspecting children. Here's where the widespread and unrestricted availability of information allows kids to see material from which caring parents would seek to protect them. Here's where the seemingly innocent questions asked in the context of interesting for a kids-oriented website provide the basis for providing a dossier of private information concerning a family's buying and other habits.

The Commission is especially sensitive to see how these issues affect librarians, and we're well aware of the policy debates swirling around them. There is an unrelenting and perfectly appropriate movement to provide increasing access in public libraries to the Internet for users of all ages. There's also a long-standing tradition within the library community that abhors any restriction on the flow of information. This tradition is strongly based on the

principles of freedom of speech and press contained in the 1st Amendment to our Constitution.

Some policy makers would impose sweeping national approaches to deal with the problems of kids and the Internet. Others would advocate a complete absence of such restrictions. We on Commission believe the proper approach, indeed approaches, likely are somewhere in between.

There are probably few metaphors that have been as overused as that of the information superhighway with all the references to potholes, toll roads, side roads, and access ramps, but there may be a lesson we can learn from this analogy.

There's no doubt that when a society builds a road, it wants all of its citizens to use it. Nonetheless, special rules do apply to children. Parents are required to use special seats or seat belts in their cars for their kids, kids have to be of a certain age before they're allowed to drive independently, and they must prove their ability to do so before society lets them out. Highways are also used to deliver consumer goods to the public, but again age-based restrictions on the use of certain materials such as tobacco and alcohol are customarily enforced.

Now, I don't want to torture this metaphor any further, but of course all analogies are inexact. I bring it up because it provides a framework for our discussion today. We're going to be hearing from a number of individuals with a multitude of perspectives on how to deal with the problems I've mentioned earlier.

Andrew Vachss, an attorney and an author whose practice deals exclusively with children, will be our first witness and will provide an overview from his unique perspective.

We will then hear from witnesses appearing in panels generally representing a common theme or approach. There is a list of witnesses available in the back of the room. And finally, we'll be able to provide an opportunity to speak for those who didn't request an earlier participation. Let me interrupt my remarks to introduce Charles Overbee. Charles Overbee, thank you again for the use of this room for the for all the amenities and the wonderful Freedom Forum freedom that we're enjoying here.

MR. OVERBEE: Thank you. I wish the view were a little better today.

CHAIRPERSON SIMON: You can't do everything, Charles. You've done enough for us.

MR. OVERBEE: We're glad you're here. We hope you enjoy your stay and that it's productive.

CHAIRPERSON SIMON: Thank you very much. We're going to have an opportunity to speak for those who are not on the panels at the end of the day. The commissioners you see here may already have individual positions on many of the issues we're going to discuss, but the Commission itself should not be regarded as having a position.

We're here to listen and to learn. Then based on what we hear today and learn today from material in addition that may be submitted within the next 30 days, we will produce a hearing record. It's our hope that this effort will be able to develop a set of practical guidelines for librarians to consider in the individual circumstances where they must deal with the perils facing kids and the Internet. I want to express the appreciation deeply from all of us on the Commission to each and every witness. I know that both the individual and institutional commitment required to be a participant in an effort like this is indeed large, and I say to all of you, thank you very much.

I would now like to ask our former commissioner and current executive director, Bob Willard, if you would review the procedures for today's hearing.

MR. WILLARD: Thank you, Jeanne. Let me also express my words of welcome to you and our gratitude for participation in today's event. If you've not done so, we ask that you do sign in our register at the door. This is our formal mailing list that we will continue to stay in touch with people who have expressed an interest by their attendance today to the materials that come out following our activity. We have a rigorous schedule, and we have copies of the schedule available. If time permits at the end of the day, we will have an open forum opportunity for anybody who didn't make previous arrangements to testify today. If you would like to take advantage of that opportunity, there is a sign-up sheet outside for that or you can talk to Barbara Whiteleather who is in the front row. Let me review the procedures. Speakers have been assigned in panels, as Jeanne indicated, and we will -- each panel -- I'm sorry, each speaker will be allowed up to 12 minutes. We ask that the statements, the summary of their statements be presented in about a five minute block, and we have a timekeeper who will give the witnesses a warning when they're down to their last minute. We will then have about seven minutes for Q and A from members of the Commission. The entire, all the commissioners that are in attendance are at the table now for the first witness. Then we will split the Commission so that half of them are participating in the Q and A and the other half will be in the audience, and we will switch that halfway through the meeting. The entire hearing is being tape recorded, and there will be a transcript of the entire event, and that will be used by us to determine our next steps in putting together recommendations and formal report out of this process. Finally, the Commission will be accepting written testimony from interested parties who weren't able to be here or supplemented by those who appear here up until December 10th, so we ask that if you want to be part of the

public record on this hearing, please submit your material not later than December 10th. I think that takes care of the administrative matters.

I'll turn it back to the chairperson.

CHAIRPERSON SIMON: Thank you, Bob.

We have an excellent and wonderful person to lead off our hearing today. I'm looking at Andrew Vachss, the attorney and novelist, a man who has devoted his life to defending children, whose biography and credentials fill pages and pages, and I'm not going to go into that.

Suffice it to say that a man who limits his individual practice to defending children, has spent a lifetime on matters concerning children abuse, neglect, delinquency and so on knows what he's talking about, not only knows what he's talking about, but wants to share with us from his marvelous background what we should be looking for and what we should be examining as we spend the rest of this day hearing from, testimony from the various panels.

Andrew, are you comfortable in starting off this morning?

MR. VACHSS: Sure.

CHAIRPERSON SIMON: Do you have enough light over there?

MR. VACHSS: Well, I didn't realize you were going to tape record this. Had I known that, I wouldn't have written the bloody thing out because I thought that was the only way to get it into the record. Therefore, I'll be merciful, and since you have the written statement, I'll just sort of try and summarize it verbally, so I won't be reading it all.

CHAIRPERSON SIMON: Well, I would kind of like to hear you read it, too.

MR. VACHSS: Someone is going to have to cooperate and indicate their tolerance level because I've spoken a lot and I've spoken literally for people's lives in court. I've never, ever done it reading. I wouldn't trust a pastor who read a sermon. I just wouldn't, you know. And –

CHAIRPERSON SIMON: Do it your way.

MR. VACHSS: Well, no, I'll try. But if it appears stilted, awkward and formal, you know who to blame, all right?

America is a country that holds free expression of opinion to be sacred, but we don't want to be confused by that into believing that all opinions are equal.

Today you're going to hear testimony about a very controversial subject, which was already summarized by MS. Simon to some extent.

There is a tension between those who want to preserve our freedom of information and those who believe a real threat to our children is being posed through that same medium, and in this case it's not Internet, it's the library providing Internet access to the public. Well, I really would like you to listen to me, and the only way I know how to do that is to give you some sense of my standing to speak, some of my qualifications to actually have an opinion about this subject. My first exposure to what I believe to be the greatest threat to children, not just here but on the planet, came 30 years ago. I was an investigator for the United States Public Health Service, and the agency's goal at that time was the eradication of sexually transmitted diseases, syphilis was the big target.

The way we did that was as follows: Somebody would test positive for syphilis in a clinic, they would dispatch one of us, and our job would be to persuade a person that we had never seen before in our lives to disclose his or her sexual contacts within the critical period. Sometimes 90 days, sometimes as long as a year. And once the person did that, we then had to find those people. So sometimes you would be looking for a blond named Cookie that was one time in a bar in West Virginia for a half hour, but since all these people were at minimum potentially exposed to a disease that could kill them, and at worse, carrying it and spreading it to oh there was a real sense of urgency about it. As you can imagine, some people were quite forthcoming about their sexual contacts, and other people -- I want you to remember 30 years ago, okay? So even getting someone to disclose a homosexual contact was a difficult task. So investigators had no defined territories. I might be in a migrant labor camp in one day and be in a penthouse another day. I would be in a juke joint or I would be waiting after church services.

What did I learn from all this? I learned that child sexual abuse has absolutely no social or economic correlation. None whatsoever. It existed every single place I looked. You have to understand, most people's knowledge of child sexual abuse is through the media, which means that if an alien visited this country in 1956 and read every book, every newspaper, watched every TV show, listened to every radio program, they would return to their home planet concluding there is no child abuse at all, it doesn't exist. When the media discovered child abuse, they were not particularly responsible about it, in my opinion. So what we have today is very little knowledge with the sexual abuse of children, but we have two belief-driven systems. One is that -- and you've heard all this. One out of every four or five children will be sexually abused by the time they're 18. There is an epidemic. You've also heard that there is an epidemic of false allegations, and this is a witch hunt, and it's all hysteria.



Now, the answer, and you're correct, it's often where the answer is, is somewhere between those two extremes. But my own knowledge preceded the debates. I never had to wonder if there was such a thing as child sexual abuse because I saw babies born with syphilis, I saw infants with prolapsed rectums dripping with gonorrhea, I saw preteens in a virulent state of sexually transmitted diseases. So there was no doubt for me that children were victimized every day.

After I left that job, I became a field caseworker for the infamous department of welfare in New York City, and, you know, there's lots written about the effects of poverty on human beings. It's another thing to see it. And I did see it. But I didn't see more of it there than I had seen in wealthier areas. But I did learn something. And this is very, very important for public libraries. Poor people are documented better, okay?

If you bring your child with a spiral fracture that any doctor knows is highly unlikely to be accidental, if you bring that child to an emergency room, the chances of you being reported to the authorities are much higher than if you're bringing that child to your own private physician. That's a reality. People who are documented tend to overexhibit in certain negative statistics.

When I left -- and here's where I'm going to lose some of you because you're just not old enough. When I left the department of welfare, it was to enter a war zone in a place called Biafra, a long time ago. It's now called Nigeria because there are no Biafrans left.

If you want an update on Biafra, think about Rwanda or think about Bosnia or think about what's left of the Kurds. It was a virulently tribal, in particular, genocidal war, and of course the people who died most and quickest were children. Starvation was a weapon in that war. So I saw that firsthand, too, and after a while I began to believe that children pay for every mistake that we make, every error we make, every evil that we practice. It ends up being visited on children in some way. And I began to wonder then what happens to the children that survive this.

So I returned to America, and after I recovered, I worked a variety of jobs. I was a juvenile probation officer, I was in a community outreach center for urban migrants, a reentry organization for ex-convicts.

Certainly I ran a maximum security prison for violent youth. And that's where I learned firsthand indisputably the direct correlation between early childhood abuse and neglect and later violence and criminality. But you need to understand that that connection has been oversold.

The average person, the median person abused as a child does not turn predator. They turn it on themselves, and they suffer diminished for the rest of their lives.

They never get to be everything they could have been. They express it in drug addiction and alcoholism and suicidal sort of behaviors, in risky promiscuity, and they're wonderful candidates for being abused by others. So at that point here I had spent a decade trying to protect children, and all I was convinced of was my own inadequacy because every place I worked the sequelae of saying there is a better way of doing this was to be fired. Government's not interested in hiring critics, and they're certainly not interested in hiring people who wish to do things differently than the way they've been doing it. Essentially if you look at the helping professions, you want to call them progressive. Yet the way they defend their practices over and over is this is the way we've always done it. All right.

At that point I went to law school, and what I wanted to do was represent children. I couldn't immediately do that full time because there's no money in it. It's impossible to make a living. So I split my practice, half between representing children and half between representing criminals, and one paid the way for the other. I didn't do sex cases, I didn't do narcotics cases. I did shooting, stomping and stabbing, the traditional sort of menu. But it did financially balance my practice. So where do I come in with libraries? 1985 my first novel was published, and it succeeded past my fantasy. So since then I've been able to represent children without having to represent anybody else because the books pay the freight. Now, the novels are Trojan horses, they're just my way of reaching a bigger jury than I could ever hope to get in a courtroom.

As a child in Manhattan, the library was, you know, my favorite refuge. It was a magical place. When those doors opened to me, they opened doors for me. Well, I attended a high school on Long Island that those of you who have a background or a long history with libraries, the name will be well known to you.

It was the infamous Island Trees High School, the place where the board decided the school library had books that the board didn't think were suitable, so they took them out and burned them. The United States Supreme Court finally decided that this was not an acceptable practice, and this part I will quote from the United States Supreme Court. The right to receive information and ideas is an inherent corollary of free speech and press that are explicitly guaranteed by the Constitution. I was really proud of that decision, and I don't believe anyone has a more sense of fervent support for libraries than I. But that support isn't robotic. And my own conduct can't be dictated by slogans.

So before I explain my position on public libraries and the Internet, let me tell you some things I've learned about predatory pedophiles. Now, you notice, I don't say pedophiles. Why is that? It's because pedophilia is a defense attorney's concoction. It's not a disease, although it's one that's been well sold. But to the extent that it exists at all, pedophilia is a state of mind. It's a feeling

one feels. I'll grant you that to feel those feelings is sick or mentally ill or disturbed or anything you wish to call it. But to act on those feelings is evil. And so I distinguish between a pedophile, who may think, and a predatory pedophile who acts.

We don't want thought police in this country. If everybody acted on their feelings, I would be doing a life sentence every single day just getting to work on the subway. I mean, it's something we're allowed to feel whenever we want. We're not allowed to -- and we're allowed to say what we want, which is the way when which is where this remark is eventually going, but we're not allowed to do whatever we want.

Listen to this statement. This is something I'm going to read you. This is referring to an article entitled Pedophiles Need Treatment. This is the statement. This would, at first, seem to be an understanding article. But it is even more dangerous than raving pedokillers. We are not sick, no matter how badly this fact shatters your view of the world. No sickness, no treatment, no involuntary confinement.

Where did I find this proclamation? On the website of the International Pedophile Liberation Front. They know themselves well. They don't believe for a minute they're sick. And I'm actually found within the section that they call their enemies list.

I'm quite proud to be on that list, although I'm not at the ranking that I think I deserve. But, you know, despite our best efforts, they continue to keep me in sort of the second tier. And this is what they say about me. Which also is interesting in terms of the position you're going to hear. This guy is defined as a crusader against the exploitation of children. He is not particularly antisex, and some of his arguments are comparatively sound, although it's only propaganda.

Well, I would oppose any attempt to censor their right to promote their views, and in fact I agree with them on their statements. They're not sick, they don't require treatment, and I am their enemy. Nothing they said even rises to a dispute.

If you go to the library and you look up the definition of pedophilia, what you'll see is it means love of children. Well, here's where you have a problem because the problem with speech is the definition of it. So a predatory pedophile's love of children is your love for a good steak. It's something for your gratification, and then disposed of one way or another. It's not an interactive thing. Chronic repetition of the same crime does not entitle you to say you have a mental illness. So just because a child molester repeats his or her crimes over and over and over again doesn't make those acts pedophilia. You know, trust me. If I was representing a guy who stuck up a dozen 7-

Elevens, one after the other, I would not tell the jury he suffers from armed robbery because I would be laughed at, right?

But we buy, because we want to, we really desperately want to believe people who prey on children are sick, we really want to believe we can treat them. We really want to believe we can cure them.

As a result, they laugh at us and go about their business. They believe the only thing wrong with their conduct is society's outmoded and Jurassic mores. They lobby for the elimination of the age of consent laws. Their position is that they're child advocates.

The position is that they're lobbying for a child's right to have sex with them. I don't dispute the right for them to call themselves child advocates. That is speech. But I want to tell you that every child molester has this in common, every one. He or she is a sociopath. That means a profound absence of empathy. They feel only their own pain, they respond only to their own needs, and their concern is strictly and solely for themselves. Unencumbered by morals or ethics, you can travel much faster.

They have something else. They have absolute hyperfocus. One of the reasons why as criminals they are the most difficult to deal with is they concentrate on their work. They dream of molesting children, and they practice it while they're awake. There is nothing else they do, and camouflage is their major tactic.

Please don't be seduced by the idea that pedophilia is just another addiction here's where it varies. Pick a problem. You're a narcotics addict, you're an alcoholic, you're a compulsive overeater or you're an anorexic. You're an obsessive/compulsive, the type that taps the table **1** times before you get up. It doesn't matter. There will be out there groups of people with your same affliction who have battled it successfully or are in the process of battling it who will welcome you and say that we'll assist you in fighting it.

There's also pedophile treatment programs all over the country, and not one has ever had a walk-in. Not one has ever had a volunteer. Not one has ever had anybody wake up and say, I hate my behavior, I hate what it's doing to other people, to my family, to my friends. I feel contempt for myself. None. The programs are full, all right, but they're full of court referrals. They're full of the get out of jail free cards that are traditionally handed out to child molesters, especially interfamilial child molesters on the grounds that they're sick.

So if pedophilia is a disease, where's the cure? The recidivism rates of predatory pedophiles are frightening, and when you consider that recidivism is the definition of a word again is defined by being caught and convicted, the fear turns to terror because the typical -- and by typical I mean median predatory pedophile, when first captured, has committed dozens of prior offenses

uncaught. Where do those figures come from? From the offenders themselves, in prison, self-reporting, and so we can assume, if anything, they're minimized.

Now, what's the significance of these statistics? What does it matter? It emphasizes their commitment to what they do. Do you know what the pedophile organizations -- and there are many of them -- call a child molester who says, even to a parole board, I'm not going to do this anymore, I've changed, I hate my conduct? Do you know what they call him? A traitor. They see themselves as an oppressed political minority.

Now, remember, we live in a country where I will do more time in prison for the cocaine I could put in my breast pocket than the semi trailer full of child pornography. And part of that defense is all about speech.

Now, I've got two professions, right? And they both hold reading and learning as vital to their existence. But as much as I revere the libraries, and I truly do, I want to tell you that these indiscriminate cries of censorship have become the new McCarthyism. Merely evoking that talismanic label guarantees people will resist, and libraries are expected to be in the forefront of that resistance, but before we knee jerk ourselves into collaboration with predatory pedophiles, maybe we should define speech just once. Not as an abstract. As an operation. Child pornography is not speech. Period. It is a photograph of a crime. It requires a victim for its production. It cannot be produced without violating a child. It is per se contraband. It is not within the definition of speech as in free speech. Because one speaks or writes doesn't turn it into the speech that the Constitution protects.

If you get a letter that says leave \$100,000 in a paper bag in the bus station, if you ever want to see your child alive again, that's not speech, even though it's written. It's extortion. It's a crime.

If you're going to call ransom notes speech, you're going to end up calling mugging performance art. You're going to end up defining everything to placate a group of people who are not worthy of your protection. I'm not talking about child molesters. I'm talking about people who just knee jerk the words free speech as though it were some icon to be worshipped. That's fine with me if it actually is the speech that the Constitution contemplates.

Now, I gave a speech in Sweden once. Sweden is sort of worshipped by child advocates because corporal punishment of children is banned in that country. But they don't ban child pornography because -- oh, you can't make it, that's illegal, and you can't sell it, that's illegal, but to possess it, well, that's people's right to privacy. So I was in a debate, and again there was sloganistically talking about their right to privacy.

So I asked them if I could have a nuclear weapon in my house. They said of course you can't? I said, why? I have just as much privacy. If it's in my house, that's your argument. That's the danger of this whole discussion about the Internet. It lends itself to sophistry.

Now, why is kiddie porn on the Internet? For the same reason it exists anyplace else. Don't make a mistake about what it's really there for. The first thing it does -- I want you to understand, only one purpose of kiddie porn is unique to the Internet. So the first reason has nothing to do with the Internet. It tells the child molester, you're not a freak, you're not a degenerate, there's lots of people who share your lifestyle. There's lots of people who share your views, there's plenty of people just like you all over the world, and here's the proof. Here's the picture.

Well, the second purpose, and again this has nothing to do with the Internet, is to desensitize potential victims. Who's more susceptible? We all say this who's more susceptible to peer pressure than children?

So if there are pictures of other children engaging in these activities, it lowers the threshold. For every child, of course not. For the vulnerable child, very possibly. And the predatory pedophile is a hunter.

Hunts the way the top food chain predators do. So if a lion sees a whole herd of antelopes, what does a lion do? Does he charge the herd? Of course not. The lion deliberately urinates on the ground. The antelopes get the very powerful smell, they run. The lion watches and sees which antelope is quicker, which antelope doesn't run so fast. Then when the herd reassembles, the lion knows where to go.

That's the same way predatory pedophiles hunt. They send out their signals, and they wait for the response. Most child sex rings begin with the exchange of trolls. The validation they use among themselves is proof that they have control of a child, and the pictures are proof of that.

But the Internet has a third special use. It's a way to test market the product. There are tons of places you can go on the Internet and see samples of child pornography. If you want to see more, if you want to see more in depth, if you want video, if you want audio, then you have to pay. But rather than a secretly placed ad in an underground publication, the Internet does permit clearly advertising of this material.

But you know what? None of this, none of this is the big threat to children. You know what the big threat to children is? From the Internet now. The failure of the community, and I include the library community in this, to separate the Internet into its two basic components. One is research and one is interactivity. So the potential for enticement is the actual difference. Child

pornography has always existed. Predatory pedophiles have always lurked outside playgrounds and inside organizations. But the Internet permits, in its interactive form, access in children that would not be available to them otherwise.

Let me read you something. This is where the process has been described. It begins with fantasy, moves to gratification through pornography, this is the predatory pedophile, him or herself, then voyeurism, and finally to contact. The Internet is a, your metaphor, superhighway down the path of that perverse pattern giving child sexual predators instant access to potential victims and anonymity until the face-to-face meeting can be arranged.

But unlike those who confuse cynicism with intellect, I believe the public libraries can absolutely protect children without in any way trampling on free speech or the first amendment. If we make it an exercise in problem solving not an exchange of slogans. So we have to stop using immaturity as this two-edged sword. We don't let children sign contracts because they're not mature enough to make decisions in their own self-interest. Why are we told to leave them alone when it comes to judging whether an online stranger is really who they claim to be?

Now, it's easy enough to go back to the slogans. Well, it's a parent's responsibility to monitor what the child sees on a computer. Well, as a parent, I can control, you know to some extent what my child sees on a computer.

But if the library in effect removes the restrictions that I have put in place, I'm not talking -- listen carefully now -- about the research component. I'm not talking about surfing the web. I'm talking about communication. I'm talking about chat rooms, I'm talking about instant messages. That's what I'm talking about.

If the library removes those restrictions, my parental authority is meaningless. And I'm not talking about my right to be a parent. I'm talking about my obligation to protect. And the free speech McCarthyites tell us, the Internet is neutral. It's a medium, not a message. We don't want to protect our children from knowledge, do we? Well, Internet is neutral, I agree with that. It's just a piece of technology. It's a tool. It acquires significance not by what it is but how we use it. So does a gun. This is a classic example of sloganeering. Specifically the kind driven by a belief system rather than logic. It can cloud even the most vital issues.

Because in truth there isn't one NRA member who would advocate -- and I don't care where you stand on guns, it doesn't matter -- one NRA member who would advocate little children being allowed to play unsupervised with guns. If anyone did, he would be shunned by his fellow right to bear arms supporters. Even those of us who hotly debate gun control, we have enough common sense

to join forces on one critical point, which is, you don't leave deadly weapons in the hands of children unsupervised. Okay?

Now, for the predatory pedophile, accessing a child across the Internet is a lot easier and a lot safer than lurking around a playground. I would no more allow a young child unsupervised access to live chat on the Internet than I would allow him to play with my .357 magnum. Does that make me a censor? I guess it depends on your definition, right? But the actual, that is not the pedophile surfing definition, the actual definition is that it does not. Does that mean if we restrict access to live Internet chat today, we're going to be restricting access to books tomorrow? You need to be aware of that sort of logical extension argument.

NAMBLA, I don't know if you know what that is, that's the North American Man Boy Love Association, for example, these are people who want to have sex with little boys, they present themselves as a gay organization. They want to be placed somewhere on the homosexual continuum because then they can say, well, you know, first they came to the Jews, and terrify gay people, they're saying, look, you're an oppressed minority. If they're allowed to oppress us, pedophiles, you're next. Here's NAMBLA's position, here's their own position in their own words. Our movement today stresses the liberation of young people. Freedom is indivisible. The liberation of children, boy lovers, and homosexuals in general can occur only as complementary facets of the same dream.

Now, I wouldn't dispute NAMBLA's right to call them homosexual or even child advocates. I assume they wouldn't dispute my 1st Amendment expression of opinion when I say they are no more homosexual than a male who has sex with a 5-year-old girl is heterosexual. They're child molesters. I can say that.

So here's my question for you. Could a 9-year-old kid come into a library and check out an R-rated film? Would you let him do it? If you say no, are you censors? If you're going to provide interactivity to children over the Internet, I don't care if you call it chat or instant messages or E-mail communication, how come permission from a parent isn't required?

And while I'm completely opposed to filters on a number of grounds, including that they're an impotent remedy, no one's ever told me, except in the sort of, you know, slogan-shouting way, what's the constitutional right to chat over the Internet provided by public funds?

As a research tool, I think the Internet has enormous amount to offer, but chat isn't research. And while it's certainly a form of speech, the enticement of children is not a protected form of speech. To be a predatory pedophile you need to be a camouflage expert.



For every child molester who jumps out of a van wearing a ski mask, there are thousands who go where the prey is.

And the Internet now has become the ultimate stalking range. Parents are told, monitor your home computer, make sure your child isn't vulnerable to predators. Take responsibility. But it goes without saying that when my child is visiting the library without me, that same computer is now open.

Would requiring each underage user who wants to go online not for research but interactivity to have permission from parents be censorship? How about making certain computers in the library adults only? Because those would permit interactivity. Would that be censorship?

On what free speech grounds is interactive cyber-communication guaranteed by public funds or the Constitution? Anyone claiming that the failure of the public library system to offer free telephone service amounts to censorship would be dismissed as a loon.

But the very word Internet has become a slogan all by itself, so zealously guarded by some that any restriction on its use, not on its contents, so listen carefully, not on its content, on its use, is called censorship.

So I think it's time to stop playing with vocabulary and ask the blunt questions. Here's one. Are you saying to the American public, if you allow your children access to the public library, have you implicatorily given your consent for pedophiles to have access to your children? I don't think so. And I don't think that reasonable preventive measures, such as I've described, are censorship in any way.

The power to name things is the power to control them, and to control people. All of us here probably, this is my guess, agree that censorship is wrong. But if we allow zealots or those with a covert agenda to define censorship, it won't be free speech that we're protecting. It will be child molesters. I know you didn't want to hear a filibuster, so I went through this as quickly as I could, hoping that if you have any questions or any hostility or any confrontation, that's the real reason that I came. Thank you for your attention.

CHAIRPERSON SIMON: Thank you, Andrew Vachss. I want to applaud because I think --

We are seldom privileged to hear such an explanation from someone who knows what he's talking about over a period of years, but I'm sure that you have provoked some ideas for further discussion, and I'm going to open this up to our commissioners who may have some questions, and I'll take Frank Lucchino first, and then others.

MR. LUCCHINO: Mr. Vachss, as a trustee of a large urban public library, we're confronted with this issue frequently, every day. Were you a trustee, do I understand that what you would suggest we do is have certain computers that are not available for interactive use in the children's sections and the other sections of the library? In our system we have, in our county, 1300 work stations. So there's a lot of them to control.

MR. VACHSS: I think that's actually very easy to control them, though. The ones I want controlled, which would only be the ones that permit interactivity, you have to ask the librarian to let you on it.

MR. LUCCHINO: So that what you would suggest is we would have two sets of computers, some that have interactivity, and some that don't?

MR. VACHSS: Correct.

MR. LUCCHINO: I gather at the end of your statement you said you were opposed to filters.

MR. VACHSS: Yes.

MR. LUCCHINO: Is that only because you think they don't work or you think filters if they did work are bad?

MR. VACHSS: I think what happens with filters is you get caught by the sloganeers so what they say is, well, if you filter out child pornography, using the wrong search words, kids won't be able to get sex information. They'll have the sort of sophistry kind of argument against it. I don't believe that you can stop children -- I'm being very blunt with you -- from seeing child pornography. It's just available too many places, and I think trying to filter it out is technologically impossible.

I also think that it's easy to defeat any filter. It's just a question of software. Look, sociopathy is not defined to child molesters. You know the technology, the global satellite positioning stuff? Where do you think that came from? From the military? It came from a bunch of whiz kids in the Silicon Valley. Who did they develop it for? For drug dealers who wanted to know where the shipments were out in the ocean with pinpoint accuracy.

Software manufacturers will, in hours, come up with a defeat for any filter you come up with. I think it's just futile. I think the way to fight it is to prevent the live access and enticement. A picture is not going to turn a child into a victim. It will shock, it will disgust, it will do all those things. There are two ways to fight child pornography: To raise the stakes for trafficking in it and to define it as conduct, not speech, but I don't think a filter is actually going to protect children.

MR. LUCCHINO: The complaint that we receive a hundred percent of the time is that young people either are able to have access to or observe others having access to pictures of nude people of the opposite sex.

MR. VACHSS: Sure.

MR. LUCCHINO: I have never had a complaint that my child has gone to the library and gotten in a chat room. So what I kind of read in that is that people aren't aware of what you're saying.

MR. VACHSS: They're not.

MR. LUCCHINO: Frankly, as a trustee, I was not aware that that's where the issue is because complaints don't -- we've never had a complaint, gosh, you let my child on a chat room in the library, and I don't permit that. The complaint is, he saw a nude woman or some sex act on a computer.

MR. VACHSS: He saw what he could see in a magazine that he could also buy in the store, yes?

MR. LUCCHINO: Well, they would say that the store has to pay for it, at the library the access is free.

MR. VACHSS: Yeah, sure, and there is no such thing as shoplifting. But the reality is that the reason you don't hear complaints about the interactivity is, victims don't complain until it's very late. You're familiar with the horrible case in New Jersey?

MR. LUCCHINO: I'm not.

MR. VACHSS: Okay. Very simply, a young man was chat accessed by a predatory pedophile. Eventually was molested by this previously convicted child molester many, many times. Eventually he went to his parents and the police.

What the police decided to do was turn the kid in to an informant, and they gave him all kinds of sophisticated equipment and let him continue his chat. The 14-year-old one day killed a little boy that came to his door selling candy. He's awaiting trial for that right now. He overdosed on being used by everybody.

Victims who are actually accessed don't report quickly. They report long after the damage is done, if at all. But those who are simply shocked by a picture, they will tell you right away.

MR. LUCCHINO: As a trustee, is the technology available for us to stop interactivity in a –

MR. VACHSS: Oh, sure.

MR. LUCCHINO: In a child's section, in a children's section?

MR. VACHSS: You can make any computer incapable of engaging in certain conduct. That's not filtering. But, see, the problem with filtering is, you search for a word, okay? Well, you can code words within your site and hide them, and it's a marketing tool.

So if I'm looking for, I don't know, gorgeous blonds, and I type that in, I might see a picture of a BMW because that's the way they've coded their website. That's why filters are not going to be -- look, I would be perfectly happy to give a sock, that's all it is, to parents. I would perfectly happy to say we've got stuff in effect that if you type up nude women, you'll be blocked. But I once met a group of kids with their parents in Seattle, and they were very concerned about this issue, and I stopped them in the middle, and I said, all right, kids, how many of you use America Online? And a bunch of them, most of them said yes. I said, How many of you have parental controls on their computer? And they all said yes. I said, How many of you know how to get past it? And they all said yes. This information, you know, you want to have free speech, you understand that some of the speech is going to be how to build a bomb, some of the speech is going to be how you defeat parental lockouts on computers.

CHAIRPERSON SIMON: Abe Abramson, do you have a question?

MR. ABRAMSON: I'm from a small urban library. We're about to install our fifth work station. And we have the same experience in terms of complaints as we've never had a complaint about a chat room. But you essentially reflected on the question that you raised earlier for me, and that was about filters and your position on filters. I mean, you were telling me that you can't imagine a commercially available filter that didn't have some kind of human interactive -- human interacting with it that would work.

MR. VACHSS: No, I'm not saying that. Those are separately entirely. I'm saying filtering is a piece of software designed to stop something. Countermeasures will be in effect within days of you putting it in. Interactivity has nothing to do with filters. The ability of an online system to go interactive is unconnected to filter.

MR. ABRAMSON: Oh, okay. But that's why you're insisting on the interactivity, because, again, you're saying that you're not able to imagine a filtering system that would do away with your suggestion that you do away with interactivity in a library setting?

MR. VACHSS: I think we're just getting confused with words. If you have a piece of software that will block interactivity, I don't consider that a filter because a filter by definition lets some things through and not others. I'm saying no, no, zero.

CHAIRPERSON SIMON: We have about three more minutes in this section. Martha, do you have a question?

MS. GOULD: To follow on Mr. Abramson, there is software available so that computers that allow surfing on the network can actually block chat room.

MR. VACHSS: Exactly.

MS. GOULD: You then would feel that would be an appropriate defense?

MR. VACHSS: You're being attacked on two fronts, okay? On the viewing of pictures front, the ability of the enemy to inflict damage is this compared to this on interactive front. Yes. I do not believe -- in fact, I think it's morally wrong and an abdication of responsibility for public libraries to allow interactive communication of children with strangers. They can be nothing else but strangers. And the crimes that have taken place, and I defy anyone to get your guy in the FBI here, there will be no argument about it, the crimes that have taken place regarding predatory pedophiles accessing children has not been through them viewing a picture. It's been through enticement, interactivity. It's not a filter that I want. It's a hundred percent bar for children.

CHAIRPERSON SIMON: Any further comments from commissioners, questions?

MR. VACHSS: Maybe I've been too equivocal.

CHAIRPERSON SIMON: I want to thank you again, Andrew Vachss, for kicking off this discussion today in a remarkable fashion. We're going to take just about a two minute break, and we will reassemble in a slightly different format for the first panel. Yes, will Mr. Maxwell and Mr. Higgins please come up. The panel this morning is short, the Federal Bureau of Investigation we have been advised is having an all-day meeting of all agents what this sounds like is an invasion from some future planetary outer space person, but practically it means that Jack Boyle will be sending his remarks to the Commission, and they will be published within 30 days. We are accepting papers. So this morning we have the honor to present the U.S. Postal Service, postal inspection person, Larry Maxwell. Will you please proceed, Mr. Maxwell.

MR. MAXWELL: Good morning, everybody. Can you hear me all right? Thank you -- my thanks to the Commission for inviting us. It's a real pleasure to be here, and I commend the Commission and all of you for focusing attention on this very important issue. It's extremely important to us in that the mail touches every home in America, so we do feel a direct obligation not only do we enforce the laws involving protection of the mails and the users, but we receive mail as well, so we're in the same shoes as you. There is things such as non-mailable issues, mail bombs, for one.

This thing in the paper now, current thing, and that could be what the bureau were doing was a task force with the anthrax mailings or the alleged anthrax mailings, which it really isn't, but those kind of things are all of great concern, and especially in the last part of this century.

For those of you who don't know the inspection service, we're only about 2100 strong, and we cover from Maine to Guam, and we've expanded internationally as has the Postal Service. So we're stretched thin along the way. We have to learn to work smart, and we've been around a long time, so that should give us ample opportunity to get smart. We've been around since the beginning of the republic. So we argue and we rely with our friends from Customs as to who is the oldest law enforcement agency in America. Since there is no one from Customs here today, I'll take that honor. What I would like to share with you today is our experiences involving the Internet. My role, I'm an inspector in charge, which in other agencies they call it an agent in charge for mail fraud, child exploitation, and asset forfeiture. So that sounds like a mouthful, and it is, but in the mail fraud area, and the child exploitation area, we see some direct relationships.

Oftentimes law enforcement becomes involved and we're measured upon our succession based on the number of arrests we make and identification and searches and traditional law enforcement measures. Our new leadership, Ken Hunter, chief inspector, who sends his regards, he has taken a new vision on that he's looking at it more from if we make an arrest, it's a failure because we have a victim, and that's particularly true not only in mail fraud but particularly true in this child exploitation area. It's tragically true.

And I'm sure I've missed some of the earlier discussions, but I'm sure throughout the hearing you're going to hear some very sad stories, and I'm sure you've heard many of them. I don't want to share any with you today other than just one or two examples, but our concern is stopping it, and I was interested in the earlier comments regarding the freedom of speech, and in the mail service there's a thing we refer to as sanctity of the seal, and we protected your right for speech with every letter that you send, and now what we're seeing with cyberspace and the Internet coming on, there's a whole new world of opportunities for legitimate businesses, for consumers, and for criminals, and we have to learn to apply our rules that we have in the noncyber world to the

cyber world, and what we're doing in law enforcement, we're focusing now our resources and those who have abilities in computers to get involved.

So we have a cadre of people now who work with computers. They are becoming savvy with the new laws as they emerge, concerning the Internet. Generally for lay people that aren't involved in law enforcement, what's true in the outside world is true on Internet. If we have to have reason to, say, record something or transcribe something, we have to have those same authorizations as we would in the real world, so we are faced with some tight restrictions. However, we do have undercover operations, and we do have a lot of other types of surveillance's we can conduct. We have a lot of intelligence going on out there.

As far as the trends go, the Internet is vastly growing. I don't have to tell you that. I forget some of the statistics that I've read recently on it. But it's phenomenal when you compare how long it took radio to reach a certain level of audience acceptance and television was even shorter, the Internet was just like a day, and I mean it's reached so many millions of people, and the potential is so much greater. What we're seeing in terms of mail, you would think the Internet would replace a lot of postal services, but in reality what is happening is we're finding it's generating even more services. A lot of times people will order over the Internet and it will be shipped by mail or Federal Express. The same is true in mail fraud schemes. What I'm seeing now is a tendency to advertise or solicit on the Internet, and there will be a mailing. That mailing. That's all I need to get me into a mail fraud violation which we can investigate and prosecute.

So the same with child exploitation. We have a number of cases where the actual, and there was the mention of the interaction. It's so important, for those of you involved in understanding child exploitation cases, that interaction.

Inspectors developed an expertise since the Child Protection Act was enacted in 1984 of corresponding. We like to call ourselves pen pals in a way, in a sort of dark-sided way with the criminal element. And we've come very adapted at luring them in to thinking we're probably a participant in otherwise a very nasty crime, and we have had good success in that we've had great success in that since 1984 we have had about 3,000 cases. Of the 3,000 we've arrested and convicted 2700 people. So I think that puts a good dent in it. When you look at what's the universe, particularly when you look at the Internet and the other potentials, the chief had me take him around all of Washington to explore what the FBI thinks, what the Department of Justice thinks, what the National Center for Missing and Exploited Children thinks, a number of other places, the Children's Advocacy Center down in Huntsville, and we asked the question, what's the universe on this, how big is it? What do we need to fear? No one could answer it. There was no answer as to how big of a danger this is or it poses to society, and then one young FBI agent just said a very simple word.

She said it's infinite. To me that answers it. We don't know what's out there. The only way we'll measure it, unfortunately, is through what victims we do see. So the best course of action that we're finding is through the prevention, education, and awareness, through events such as this where you bring it to a level of awareness, where people can deal with the issues, where people can actually see what it is they have to consider before they can make intelligence choices. I often say in the mail fraud area that every time there is a mail fraud victim, there is a choice, and they have to make a choice to participate. If they choose wisely, they won't participate if it's a fraud scheme.

In the area of exploitation, oftentimes you have innocent people that maybe can't make that choice. So we have to help them. And we have to do it in every way we can possibly do that, and in the meantime, we have to keep looking in law enforcement and basically scanning what there is out there, and what that universe is, that infinite universe really exists of.

I can tell you in the last two years, since we've been tracking Internet crimes involving child exploitation, we have had 400 cases, and of the 400, 42 percent involved an initiation or contact by the Internet. So that's fairly significant in any terms. We're almost talking half here. And that's early on. I mean, there's a lot more people getting involved in this. So those are considerations we have.

As far as the future of the Internet, like I say, it just looks like it's balanced and growing. In terms of the Postal Service, we can pledge that we will keep our expertise up to the degree we have to, to compete with our adversaries, but, again, I would definitely say that if we can reach people, if we can prevent the crimes from happening through education and awareness, that's the best step. Thank you for having me. I'll answer any questions.

CHAIRPERSON SIMON: Thank you, Larry. I would like to offer the opportunity for questions to our panel. Abe Abramson?

MR. ABRAMSON: I'm not sure I understood you, but did you suggest that if someone on the Internet solicits someone to use the mail, that that opens the door for you or does someone have to use the mail?

MR. MAXWELL: Generally we get involved if the mail is actually used. Now, I'll qualify that with sometimes you don't know if the mails are used and we're not going to back off. If one of our agents are involved in a correspondence or an interaction with someone, and it involves a case, we work often on task force or we have associates in the Bureau and Customs who are the two other primary law enforcement agencies working in this area, we'll work it through, and we'll find a way, and even there are times our people go out on the search and the arrest. We may not claim that as one of our statistics for our agency, but if we have the expertise to bring to it, we'll work it. But our jurisdiction, yes, it's limited to where there is an actual mailing.



CHAIRPERSON SIMON: Joan Challinor?

MS. CHALLINOR: Yes, I would like to say from 1948 to 1952 I worked in the children's court in New York City, and I know what you are talking about, and I know what Mr. Vachss is talking about and I know, and I would like to emphasize how long is the time between the crime takes place and the child tells somebody. This I don't think is well understood. The crime has gone on over and over and over again before the child tells. Would you agree with that?

MR. MAXWELL: Absolutely. In fact, the time element and the, how can I say, the personal involvement by the agent working these cases, it's very controversial in my agency, and I know in others, how long one agent can stay in the assignment because of the involvement. You become very much emotionally interacting with these people, and you also get very involved with the victims. So it happens because over the course of time you get to know them. If you read, as I've read many of the letters that our people write in and responses back, you're actually sharing a lot of intimacies. You have to get inside someone. So, yeah, it's very lengthy.

And my concern with that emotional factor is, it takes years to get somebody to the point where they can actually be an effective agent, they can correspond, communicate with the element we want to attract, but when it comes to that point in time, maybe three years, it may be time to move them out of the assignment depending on the management philosophy. We're at different odds on that. I'm a little bit more open in the sense that I kind of view it as it depends on the individual. I've seen people in the assignment 15 years, they're outstanding, and they're rock solid as far as their philosophy on life. I don't have a problem with leaving them in there.

CHAIRPERSON SIMON: Martha Gould?

MS. GOULD: Just about every community in the United States has a public library, in their libraries and their schools and just about every community in the United States has a post office. What would you suggest in terms of programs that would raise awareness of these problems? How could, say, the local postmaster interact with the public library of the school district to come up with an educational or an awareness program? Because we also have privacy issues where children surfing the Internet could come across a site that would ask of the child inappropriate questions. That could be then used for marketing issues or some kind of a scam.

MR. MAXWELL: What I would suggest is similar to what we do in the mail fraud area, the mail bomb area. We've also done this in narcotics areas. It's illegal to mail narcotics or proceeds from drugs. We have posters in lobbies. Some of the larger lobbies in some of the major cities actually have TV

monitors where we can show videos, education videos. But most importantly I think I would offer to you that inspectors do stand-up talks, as we call them, where we will go out and chat with the community. Often the most demand seems to be for mail fraud. That seems to be the sexy topic of the day because most people are interested in that because they receive so much in the mail. But this is a very important one, and I think that would be a good area for us to explore as far as having inspectors involved in child exploitation assignments come out and maybe share with other enforcement officers and some community leaders to talk about some of these issues that you're talking about here. That might be helpful.

CHAIRPERSON SIMON: Frank Lucchino.

MR. LUCCHINO: MR. Maxwell, with regard to your experience in the postal inspection service and the public library, have you all had any issues where the venue for this contact was the public library, where any of this chat took place?

MR. MAXWELL: You know, it's interesting you would say that I was looking through the portfolio that we had of the cases in the last two years where we've been tracking it. I haven't seen any indication yet, but it does fascinate me as to whether -- I mean, you would think, depending on -- and I understand you have a lot of facilities around the country for this opportunity, so I guess my first blush, I would think most people involved in this would probably want to do it in the privacy of their home, but maybe the victim child which you are referring to would more likely go to the library, for their privacy, get away from the parents, maybe go to the library. That could be. And, in fact, you've raised my awareness to it. I will look at that because maybe that would be a helpful piece of information to know for the future because if that is true, then, as you suggested earlier, maybe there is something we can do to work with the libraries on that.

MR. LUCCHINO: The librarians may be way ahead of those of us who are library trustees on this subject, in that Martha tells me that at the Washoe Public Library in Nevada where she was the librarian that they don't permit chat, and it may well be that my own library doesn't permit chat, and I'm not aware of that, but it sounds like it can be blocked. The issues that we continue to confront are the photos, the explicit photos that appear on the screen is what upsets the parents. It sounds like from the previous speaker, at least, that's -- you're being misled if that's what's concerning you, that your concerns should be the chat that occurs and not the photos so much.

MR. MAXWELL: I would agree with that again this is my personal and professional opinion, too. From what we've seen is that interaction is the key to these cases. The photos where they do provide some stimulus and obviously there's a curiosity on the part of children, where I -- we used to -- we still have

on the books adult obscenity, we call it. There are some states that take big exception to adult pornography, as we used to call it.

Basically the Supreme Court has spoken that it's community standards. That's how we focus. We focus on what concerns the child exploitation. If they're depicting children's photographs in a pornographic way, that's when we draw the line and step in. Anything beyond that we as inspectors are prohibited unless there are community standards. So the interactivity is the most important. We don't get as concerned with just the regular pornographic photographs because I don't see that as the key problem. Again, that's my experience.

MR. LUCCHINO: There was one other question. What happens is local law enforcement in these areas of cyberspace aren't as sophisticated as some other branches of law enforcement. If we had this issue in Pittsburgh where I'm from, and we discovered that there was child pornography being displayed or there were chat occurring and it wasn't blocked for some reason, and so we thought a crime was occurring in the connection with these predatory pedophiles as Mr. Vachss describes. Would the Postal Service in Pittsburgh be somebody we can turn to? Is there a cause for postal inspectors to get involved just because it's been on the Internet?

MR. MAXWELL: Absolutely. What I would suggest for everyone in the room that's interested in this, if you do have a suspicion of a problem or in one of your library offices, please call us, call the local postal inspector, call the local FBI agent or Customs Service agent. They can best advise you as to the capabilities of local law enforcement.

Again, local law enforcement -- and my father was a New York State trooper, so I come from a long line of law enforcement people -- they provide an immediate function, immediate relief. If you have a child being battered, and they also do get involved very heavily in task force operations, so they do an excellent job. I know what you mean. It's a different level of, how can I say it, development in each of our agencies at this point, and we in the inspection service certainly don't feel we're to the point where we want to be. I've chaired a few groups where we focus on Internet crimes, fraud and child pornography, and we have so much to learn.

The next generation of law enforcement officers will be much more savvy with computers. The new ones coming in right now I can see have a much greater aptitude for this just from playing at the libraries on these, and at home, and with computer games. So the future looks bright that way.

Right now for the immediate, yes, please call us. We will definitely find what expertise is necessary because we're very concerned. You don't want to wait a lot of time because even though we're talking they take a long time, every day

you lose is one more day the child is exposed to something, and the quicker we can act, the better.

CHAIRPERSON SIMON: Thank you, Mr. Maxwell. Abe, I want to ask you if you would withhold the question. Walter? We are running a little short on time.

MR. ANDERSON: It will be very quick just for clarity. If I were to order child pornography from a unit, I'm sure I would violate a Federal law and would get arrested for doing that. I just would hope that you would define the difference between two adults and a picture of a sexual act on the screen and a child in a sexual act. One is evidence of a felony prosecutable in every one of our states and the other is not. It's important to define that difference. You use the words interchangeably, and they're not interchangeable. The picture of a child in a sex act is a felony, and we have responsibility as adults to respond to that.

MR. MAXWELL: Community standards, that applies to adults. That is not an issue of what we're dealing with here in criminality.

CHAIRPERSON SIMON: In an effort to keep sort of on time, we're going to ask you to withhold questions. Abe, I know you had another one. We would like to hear now from the office of the Attorney General, Kevin Higgins, state of Nevada. We're pleased to welcome you.

MR. HIGGINS: Thank you, Madam Chairman, members of the committee. Maybe I'm in a somewhat unique position here today. I wear two hats. One, I am a prosecutor with the state Attorney General's office. I head up our high tech task force, and we have actually done some proactive things to warn parents and children about safety on the Internet.

The other hat I wear and wore was I was chairman of the board of trustees in Washoe County when Mrs. Gould was the director of the library, and I currently am the chairman of the partnership library committee which is an interesting project I'll talk about briefly.

It became clear several years ago that we weren't going to be able to afford to build lots of library branches in the Reno area. There just wasn't the funding for them. We knew school libraries sat there unused after 3:00 and on the weekends and all over the summer, and it was a facility that could be used at little cost so we partnered with several school libraries, and under Mrs. Gould's direction, and we have seven partnership libraries now for branches we didn't have to build.

We have partnership libraries full of community, public libraries, in high school, grade school, a middle school, all over the county, and I currently chair

the committee that kind of serves as the advisory committee between the school district and the library system.

One thing I found out, and this is long before the Internet came about, was that public librarians and school librarians speak a different language. We won't even talk about academic librarians. That's another whole issue.

But on who was responsible for what and how the approach to the children, and our committee, we thought we were going to be able to have one operating agreement for all these libraries, that these are the rules, this is how it will work. That proved not to be the case.

It proved the only way to make this work was to have independent agreements and site-based decisions on each of the libraries. Now, for instance, in Verdi, Nevada, a very rural community, I assumed the principal would want to wait for the public library hours until after school was out, so the school kids were gone and the parents and the other people in the community would have access to the library. That wasn't the case at all. It's such a small community, he knows everybody, he is comfortable with the general public using the school/public library during school hours.

On the other hand, a high school library where I didn't assume it was going to be a problem at all prefers to wait until an hour after school is out before public access is allowed to the library. We have public librarians that serve there after hours and school librarians, and just getting that coordinated has required site-based decisions on all those issues, which kind of leads into what the approach has been on the Internet access policy.

Some of the materials I provided show that the school district and the library have very different approaches to Internet access. Our school district requires permanent filtered access at all times. There are letters that even the kindergartners have to sign on how they're going to use the -- I'm not sure that's legally binding as an attorney, but their parents have to sign them, and it explains to them what the access is going to be and how it can be taken away, and in fact it can be taken away in the school system. If you're found to be violating the policy, if you've managed to thwart the filtering system or are hacking the system, the first time your privilege is taken away for a month, the second time it's taken away for a semester, and the third time you lose all of your privileges to use the system.

I was discussing this with a university that had a computer crime problem with the students, and I said, well, maybe if the students are abusing the system, you shouldn't let them use it, and the academic librarians looked at me like I was nuts, this is a university, we couldn't possibly treat our students that way. But that's another story.

Now, the Washoe County library system, on the other hand, has adopted a policy, a multi-part policy. If you're a parent, you have a choice. You can either say my child cannot have any access to the Internet at all or my child can have access to the Internet while I'm there, and as a subset of that you can say my child can have access to the Internet while I'm there filtered or unfiltered.

There is actually four options that's coded into the library card about how they access the library Internet. In combining that with the school district policy on filtered access, it was necessary, and the materials are in some of the materials that are on the table out there, we had to develop a matrix on who was in charge of enforcing what policy during what hours on which equipment. It actually worked.

We sat down and the reason the partnership library committee works is there are school librarians on it, there are public librarians on it, there is a principal on it, a member of the general public there is people from the computer -- or from the library staff on it, and we figured out, it was just a matter of deciding which equipment was being used by who and which policy would apply, and I won't go through the matrix in detail.

But what happens is certain times of the day the school librarians have to apply the library policy on county equipment and certain times of the day the county librarians have to apply the school policy on the school equipment. And we have had Internet access on these joint terminals, we have put public access Internet terminals in three of the joint use libraries in public schools so far, and I was just discussing this with the Internet librarian last week, and he says since October when these public access terminals have been -- in October, we've had the terminals since last April. In October 642 adults and 135 minors used the library's terminals totally. Of the 80 minors given permission by their parents to use these public access terminals, 36 of the parents specified need no parent present, no filter is necessary. 32 parents specified, parent need not be present, but a filter is necessary. Eight parents specified, parent must be present, and even if the parent is there, we want a filter turned on, and four parents specified parent must be present no, filter. It's interesting to see that at least half the parents are requesting filter access. They are specifically told, in the limited time we have today I'm not going to go through it, but the parental permission slips say the filtering is an inexact science at best, it's only a start, and they can't guarantee what that's going to mean. But since last April our library has not had a complaint about a student other a child that was looking at something they shouldn't have been looking at.

Our Internet policy requires several things. One of them is the terminals are placed generally where the screen can't be seen by other patrons. We do have glare filters on them that basically you have to be sitting right in front of the screen in order to see it, you can't see it other than in front of it.

We had long talks with the principals about this in the joint use libraries, and especially the middle school principal said, if I walk through the library and I see 14 little boys crowded around one terminal, I know what's going on. And so to solve that we're not going to have -- the library system's terminals will not be turned on in that school during school hours. It will only be accessible after hours as a general -- when it becomes a full-use library. We've accommodated those principals' worries and needs. And so far we haven't had any complaints. I don't know how long that will go. When I was with the library, we had complaints about Halloween books as being witchcraft, and we had complaints about sex education books shouldn't be located where children can get them in the library, but we haven't had complaints on this so far.

I'll skip now to my other hat. To be very brief, a few years ago we were ignorant of high technology crime issues in the Attorney General's office. We had a case dumped in our lap where somebody had figured out how, we don't like generally to tell people this, but figured out how to break into slot machines and fix them so they would win.

It was an employee of our regulatory agency, our gaming control board who was doing it. So he was tasked with making sure it didn't happen, and he did it. That case ended up in our office. It became clear that in our state there wasn't a prosecutor that could prosecute these kind of crimes, there wasn't -- there was maybe one investigator that could do it, and certainly there wasn't a judge that understood it.

So the Nevada high technology crime task force was started about a year ago. I headed up that project. Our goal is to educate prosecutors in Nevada and educate judges and educate investigators so we can find and prosecute these crimes that happen.

Just as quick examples, a murder case was involved in Reno recently, the department manager was dead, they noticed a computer screensaver was on. The cop opened up the screen and there's an account for the person that he was having a disagreement with about the rent. The crime was solved easily that way.

What we tried to train our investigators to do is to know enough that if they walk into a crime scene and a computer is on, leave it on. If the computer is off, leave it off, to not walk up and type DIR to get a directory listing because even the simplest of computer hackers can fix the computer so that it formats the hard drive rather than running the directory list. The more sophisticated ones easily hide the evidence. We like to say old crimes are being committed new ways. Most of our meth producers these days are actually keeping track of their sales on spreadsheets. That's great evidence if you can find it.

One thing we have done proactively, though, that is more applicable to this area. Our office has produced two things. One is The Parent's Guide to the Challenges of the Internet. I distributed several copies. I think just about every school kid in Nevada has gotten one of these by now. Every library has one, every public school has it. We passed them all over the country.

A lot of parents, the idea of Internet access, even though the letter that goes out from the school district, the letter that goes out from the library says if you want permission, please sign here, here's what that means. They don't understand what that means. We warn them about what that can be. It says, no matter how good we are about the filtering system and how vigilant we are about watching what they do, they're going to be potentially exposed to inappropriate material, and they are potentially open to exploitation by predators. We very specifically say, the ground rules need to be established on the use. Internet both at home and in the public library, and I think one of the best suggestions I've ever heard, and we've put it in this pamphlet is if you're at home, you put the home computer in the living room or the dining room, and if your child wants to surf the net while you're watching TV or reading a book, that's great. He's not hidden away in a back room surfing and looking at things he shouldn't be looking at.

We also warn about chat rooms, and I can tell you as having the father of a one year old daughter, I doubt I can see the point where my daughter will be allowed to use a chat room. We had a case in Reno where a pedophile lured two young women from North Carolina to Sparks based upon meeting them in a chat room. They thought they had found -- well, for whatever reason, they came and were obviously exploited.

The system, our technology, high technology task force is modeled after a program in Sacramento. They have a horrendous videotape they can show you about this guy that brags about how good he is about pretending he is a 15-year-old boy on Internet and luring these young women to Sacramento and brags. He is proud of the number of young women that he has lured there and taken advantage of. So proud that he was convicted and sent away. But these are some of the things we warn about in this brochure. You know, the red flags that would happen, the use of use net groups and E-mail, and we try to be a little proactive about it.

We have also warned, there is another brochure, just the sort of things that businesses ought to be doing to guard themselves, and as I was telling the Attorney General the other day, there is about 40 tips in here. About 20 of them we ignore in our office, in the Attorney General's office. Simple things like changing passwords.

I can't tell you how many government agencies I can walk through and everybody's password is on a sticky note sitting on the computer screen. That's



a real problem in our office. We can talk about how easy it is to exploit people's computers. I guess the sum of my testimony would be, at least my experience is, I don't work for a Federal agency, I work for a small states Attorney General's office, I'm a trustee on what I think is a very fine library system but certainly isn't large by any means compared to many on the east coast.

I think what we have found is that making site-based decisions, having local control about these issues, and accommodating ourselves to the needs of the user, depending on where the user is. The library access in Verdi, Nevada is very different than how we allow children to access Internet in Sparks, Nevada, where I live, and the policies have been developed in conjunction with the parents, the principals, teachers, the librarians to fit, and so far it's worked, and I'm sure at some point we'll have a complaint about some of this stuff.

One of the middle school principals asked me, and it was a very good point, she says, if I walked into the Washoe County library, I could not order a pornographic videotape, could I? I said obviously not. Then why is it that I can have access to other pornographic material? Of course, the distinction is made about the library not having to pay for Internet access, they would have had to had pay for the, chosen to add to their collection that tape. But the first speaker's comments are taken very well. We assume by sending our children to the library they're safe, that they're not going to be exposed to things they shouldn't be exposed to. A lot of parents don't feel safe turning their children loose at the mall or letting them walk to the 7-Eleven, but they oftentimes feel safe letting them spend time in the public or school library by themselves. So we've tried to proactively do it. I think it has worked. I would be happy to answer any questions. This is an approach that has worked for us in Nevada.

CHAIRPERSON SIMON: We thank you, Mr. Higgins. Obviously in Nevada they are ahead of the curve to some of this. We have to give some credit to Martha Gould for some of that.

MR. HIGGINS: Most certainly.

CHAIRPERSON SIMON: Any questions?

MR. ABRAMSON: I have a question I would like for each of you to answer, MR. Maxwell, to the extent it's possible reasonably in the next 30 days, could you supplement your testimony by any kind of indication that's obvious about whether any of the cases that you have prosecuted look like they were initiated, if the child was in the library?

MR. MAXWELL: I would be happy to.

MR. ABRAMSON: If it's in the file, fine, if it's not -- the question I have for each of you, I'm wondering, since this is a newer area in the Federal case, are you line item funded for specifically Internet technology investigations or does this come out of your hide someplace else?

And does the Attorney General in the State of Nevada have someone designated as they do for like death sentence prosecutor, do they have someone designated to handle these types of issues and funded. Either of you can go ahead.

MR. HIGGINS: Well, it's me, and we're asking for funding. Our session starts next February. We have put in money to -- of course, our approach is much broader than just this issue. We have put in money to fund the high technology crime center, to have some people who can do these investigations. Right now the fact that I've been kind of heading up this project and expressed interest in it, I get referrals all the time. I just do them in addition to my other current duties. That's our problem. We want to try to partner with the small local law enforcement. That was a great idea. They had the sources, the funding. In our case the kicker is the equipment in order to do these prosecutions. We're going to ask our legislature and hopefully get something.

MR. ABRAMSON: How about you?

MR. MAXWELL: The Postal Service, as all of you know, is quasi government, so we are not appropriated. We derive our income from the sale of postage stamps and mail deliveries. The inspection service again mandated by law to protect the Postal Service. We have 200 statutes, like I said earlier that we enforce. We get our budget from the Postal Service. It's roughly about \$500 million, which covers the uniformed division, postal police, plus the 2100 inspectors I mentioned to you. Of that universe, if you will, my little piece of the pie is the fraud and the pornography, and I'm also getting more and more involved in the computer end of it. The chief has to allocate of that pie that he has what he will give out, and in terms of what areas. I can tell you that we have established a computer crimes unit. In fact, he's just moving into his office today, but he's been around about six months now.

We are affiliated with the Department of Justice who has a computer crimes unit, has had one for sometime. We also just assigned an inspector to the instant images task force in Calverton, Maryland. It's a cyberspace type orientation of the FBI. They have two squads there. We'll have an inspector there, possibly two, primarily again bringing the expertise of the communications end of it, how they interact with the people. So training, we've increased our training, we've had about four classes across the country last year just on computer crimes. I have a subworking group focusing on computer crimes.

MR. ABRAMSON: Thank you both.

MS. CHALLINOR: I have a question for both of you. Would it work or what is your opinion of the suggestion made here this morning by Mr. Vachss that children be prohibited from using all interactive parts of cyberspace?

MR. HIGGINS: I think that's absolutely a need, and I believe our library does that now, that the interactive part is turned off in Washoe County. If it's not, we should do it soon. I agree absolutely.

MR. MAXWELL: I'm not a parent, but if I were one, I would prohibit my child from doing that. That's a personal view. Professionally speaking, I think all the evidence is clear that this type of crime is you're most exposed to it through the interaction. So I would favor it.

CHAIRPERSON SIMON: Washoe County, would you like to say a word?

MS. GOULD: Always. In terms of interactivity, are we limiting that just to the chat rooms? There are some very good sites that have been previewed and libraries linked to these sites on their terminals that are not open for surfing. I would hate to lose that type of interactivity. So I think we need to define what types of interactivities are appropriate and are not appropriate. I would hate to lose some of the interactivity you have if you go to the Library of Congress. On the other hand, chat rooms are perhaps inappropriate.

CHAIRPERSON SIMON: Frank Lucchino. This will be -- we're going to wind up in about two more minutes, Frank.

MR. LUCCHINO: Mr. Higgins, I was fascinated by the percentages that you read of parent selections. Could you just go over those one more time about what they-they would allow their children to do when they were present or not present.

MR. HIGGINS: Certainly.

MR. LUCCHINO: If you have that handy.

MR. HIGGINS: Well, out of 80 children that have been given Internet access of some sort, 36 parents said parent need not be present and no filter need be in place.

MR. LUCCHINO: So almost half?

MR. HIGGINS: Yes. Of course I can't say if those are 17 ½ year old high school students or parents that don't understand the problem. 32 parents said they need not be present but a filter should be in place. So most, the greatest

majority of the lot was parents not there at all. Eight parents said parent should be there, filter should be on. Four parents said parent should be there, no filter necessary.

CHAIRPERSON SIMON: The child is how old? Up to 18?

MR. HIGGINS: Up to 18.

MS. GOULD: Is this strictly for the terminals that allow surfing on the Internet?

MR. HIGGINS: That's correct.

MS. GOULD: They're not the terminals that have the site-specific Internet sites that we have linked to the online catalog?

MR. HIGGINS: No these are just accessible Internet terminals.

MR. ABRAMSON: I signed some of my own excuses when I went to school. Is there any suspicion that some of those students filled those forms out themselves?

MR. HIGGINS: You know, actually, and I meant to mention this we first did partnership libraries, we required everybody to have a permission slip to get in. It was 5,000 stew departments, 10,000, it was an enormous headache. We now require parents to say they don't want to use the partnership library ahead of time. Now they have to have positive permission. As far as we know, these are all accurate signatures.

MR. LUCCHINO: As a trustee, I'm really fairly surprised that 36, almost half of the parents said show them whatever they want, and I don't have to be there. Here we are with half of our audience says that and the other half says something else. This is separate, not from chat rooms, just talking about what they can see, which is what keeps making the news. I mean, the New York Times does that piece on circuits, and on October the 15th, in their circuit section, all about the Austin public library, the whole issue seems to be what you can see, not chat, and that's where, at least from a trustee's point of view the battle seems to be engaged -- in observing. And here's half the parents of children under 18, say show them whatever they want to see.

CHAIRPERSON SIMON: We're beginning to see another vision here of the huge problem. I'm going to conclude this panel with thanks to Mr. Maxwell and to Mr. Higgins. We appreciate your presence here this morning. We're going to have another ten minute break instead of a 15 minute break so we can kind of keep a little bit on time. Thank you.

(Recess.)

CHAIRPERSON SIMON: Are we ready? This is panel number of our hearing. We're going to be hearing from the Federal Trade Commission and the Center for Democracy and Technology.

Deirdre, will you please proceed with your testimony.

MS. MULLIGAN: Sure.

CHAIRPERSON SIMON: Toby, I'm sorry, we agreed you would go first. Toby Levin, an attorney for the Federal Trade Commission. Thank you.

MS. LEVIN: Thank you very much. Good morning. My name is Toby Levin, I'm with the Federal Trade Commission. The Commission is an independent regulatory agency with law enforcement powers. I'm here today presenting my own comments. I have to give the standard disclaimer that my comments are those of my own and not necessarily the views of the Commission or any individual commissioner. Having said that, let me go ahead and give you a little bit of background of our role with regard to Internet privacy. The Commission's mandate is to enforce the Federal Trade Commission act, which prohibits deceptive or unfair practices in or affecting commerce, as well as unfair methods of competition. Protection of children has long been an important area for the Commission, and historically our focus has been on deceptive advertising directed to children, but most recently we have been very involved in the issue of online privacy protection for children.

The Commission has been concerned about protecting the privacy in this new online medium which makes information collection easier than ever before. It's a new medium, but it raises familiar concerns about marketers' interaction with children and the important role of parents both to protect children from abuses and to help educate them about the marketplace.

We conducted a number of workshops in this area, and in the course of that learned about survey evidence which indicates that parents have strong concerns about the information practices of commercial web sites. In fact, the report of Weston and Lou Harris survey was that 97 percent of parents, Internet parents believe that web sites should not collect information from their children and sell it or rent it to others. 72 percent objected to the collection of information even if it was only used for internal purposes. And when I refer to information in the course of my remarks, I'm referring to identifiable information.

The FTC has addressed online privacy in several ways. I suggest you may want to go to our website, [ftc.gov](http://ftc.gov) which has a number of materials that might be of interest to you about privacy and our efforts. The Commission has held

workshops over several years, and we have facilitated discussion among industry groups, privacy advocates in government to identify the key issues in this area and also to work on solutions. We've encouraged self-regulation by industry leaders and associations to address the issue, and a number of trade groups have developed privacy guidelines for their members. Most recently in June of '98 the Federal Trade Commission issued a report to Congress on online privacy, a copy of which is on the display table. If you would like to receive a copy, please see me later today. This report summarized the principles of fair information practices, notice, choice, access and security, assessed industries, existing self regulatory efforts to provide these protections, and assessed the extent of online information collection and privacy protection on the web by conducting an extensive survey. The Commission staff surveyed over 1400 web sites in six samples, most importantly for this group, one sample of 212 children's web sites.

We found that there was a very low number of sites posting privacy policies and providing consumers privacy protections.

Our survey found specifically with regard to children that 89 percent of the sites in the sample collected personal information from children, and many collected a number of different types of information. Children sites collect this information through registration pages, surveys, online contests, pen pal programs, guest books and application forms. Most importantly, children can reveal their own personal information in the course of their activities in chat rooms, message boards, and posting their own personal home pages. In the survey we found that of the children sampled, only 24 percent posted a privacy policy. Less than 10 percent provided any meaningful parental involvement, and only 1 percent provided prior parental consent.

As a result of our survey, the growing number of children using the Internet, and the high level of parental concern about protecting their children's privacy, the Commission recommended in our report that Congress enact legislation to protect children's privacy online. Senator Brian McCain in July of this year introduced a Bill, S 2326 which was then passed on October 21st and signed by the president to provide children protection with regard to the collection of information on the Internet.

This act, in general, provides privacy protection such as requiring parental notice, prior parental consent for collection of personal information, and most particularly, in addressing the issue raised earlier today, where children, commercial web sites are engaging in chat activities, they would be required to get prior parental consent if those activities permit the child to disclose their own information. The limitations of this law, which requires the Federal Trade Commission to implement regulations with -- to issue rules within a year is that it does not address children's privacy over the age of 12, it does not address the

distribution of adult material to children, and it doesn't address the information practices of nonprofit organizations.

However, it does begin to address, I think, the overall issue of privacy on the Internet with regard to children, and we would hope that other sites that perhaps don't fall under the legislation would see this new legislation as a model for privacy protections in the future, and I would be happy to respond to any questions about the new act and the FTC's role.

While the act itself does not go into effect at the earliest until April 2000, in the interim the Federal Trade Commission has given guidance to web sites with regard to what our existing authority, and just briefly to say that under our existing authority we believe that commercial web sites must give parents notice if they're dealing with children 12 and under, with regard to information collection, and should obtain prior parental consent where they are going to disclose that information to third parties or make it publicly available.

MS. GOULD: I have a question. The process or the procedure for getting the parental consent, if you're doing everything over the Internet or via E-mail, how do you know it's the parent at the other end?

MS. LEVIN: Okay. We will be dealing in our rulemaking proceeding with that issue of verification of parental consent. However, we've already brought action against one major site in this past summer, and in that order the site has given a number of mechanisms that they can use. Similarly in the new statute, it will allow for some flexibility, but currently the easiest way for a site to do this is to print out -- is to direct the child to print out a form which the parent is then asked to sign and return by mail or fax. Presumably in the future we will be able to use electronic means with digital signatures. Some companies now have an 800 number where a parent can call. None of these current non-technologically high tech methods are foolproof, but we feel they can provide a reasonable level of parent verification.

MS. GOULD: But even if they print it out and mail it back you to, you still don't know that it is the parent's signature. You have to assume that.

MS. LEVIN: Right. And I think because of experience in schools and as a parent myself, I know that younger children still tend to ask their parents for permission when given a form, and while there may be some percentage of children that would falsify it, I think the majority would not, and the website will have to determine based on the form whether that looks ostensibly like a parent's signature or not. Some sites are calling parents to determine that. So I think we're going to be working out the implementations of these mechanisms, and as I said, without some additional technology, it's not foolproof at this time.

CHAIRPERSON SIMON: Abe?

MR. ABRAMSON: My understanding is that we're approaching 300 million web sites worldwide. Although most of those are in the United States, even if the FTC were to have some kind of jurisdiction, we're not going to suggest, are we, that there is any of those kinds of protections for online privacy for children in areas outside of our borders?

MS. LEVIN: Our jurisdiction extends to commercial web sites within the United States. We would not be able to require a foreign site to adopt these practices. However, you know, we're now looking at the jurisdictional issue if there's a pattern of U.S. consumers or children information being disclosed, and it's disclosed publicly in the United States, there those jurisdictional issues I think still are not clear. We do work very closely with Canada, cross border countries, and as part of the European Union foreign European countries at least have established a fairly high level of privacy protection. So there may be a global impact beyond just what we are -- what this new act will require.

MR. ABRAMSON: Which is also true with online gambling between here and the Caribbean, I suppose. There are a lot of things that aren't going to be solved.

MS. LEVIN: In the short run there's going to be some, I think, difficulty, but these jurisdictional issues are being worked out. The OECD meetings are taking place to work out on jurisdictional issues. I think we'll just have to work on that over a period of time.

CHAIRPERSON SIMON: Joan?

MS. CHALLINOR: Do you have an opinion on the possibility of putting all interactive cyberspace off limits to children?

MS. LEVIN: Well, I think the concern that was raised this morning with regard to interactivity, as I think Miss Gould pointed out, really in terms of the safety issue focuses largely on certain interactivity such as chat room or message boards, and I think to the extent that this new act will require prior parental consent where those activities reveal children's personal information, like their E-mail address or their postal address, I think that will be part of the solution.

We have not taken a position on totally prohibiting children's access to these activities. I think our view has been that we want to bring the parent into, particularly for the younger children, bring the parent into the process here. I don't see us taking a position on that.

MS. MULLIGAN: Can I just add something?

CHAIRPERSON SIMON: Sure, go ahead.



MS. MULLIGAN: Sorry to speak slightly out of turn. One of the exceptions with the parental consent provision in the Children's Online Privacy Act is in there specifically to ensure that children can continue to have interactive experiences on the web. Initially the bill, in order for a child to send an E-mail and request information, parental consent would have had to have been received by the website prior to that interaction. Now, we thought particularly, it's a civil liberties organization, we were concerned about accessing information, and we thought that for children to be able to seek out information the way you would go into a store and pick up a newspaper, online, often you often actually send a piece of E-mail and request information back. We didn't want to create a barrier to access information. So instead of requiring parental consent there, you can give a child information back if they've asked it, asked for it, but you can't use that information for other purposes. You have to destroy the E-mail. You can't use it to market to them. So there were other rules that were set up to ensure that interactivity actually was protected because I think there is a risk there.

CHAIRPERSON SIMON: Deirdre, you've already taken off. Why don't you continue with your statement?

MR. LUCCHINO: I have a question for the FTC. Ma'am, could you help me please understand in this new statute, you keep referring to commercial sites. I assume, then, there must be a distinction between those that are commercial sites and those that -- I don't know what other category there are, noncommercial or something. Is that accurate?

MS. LEVIN: The statute defines the sites that are engaged in sale of goods or services with an exception for nonprofits, so I'm using the term commercial as a shorthand. Nonprofits often can engage in commercial activities. But there is a specific exemption in the statute for nonprofits because the FTC's jurisdiction in the past has had that exception. It's not, again not to say that it wouldn't be advisable for entities to model similar practices, but the statute itself only applies to what we would consider in general these commercially oriented web sites.

MR. LUCCHINO: If a site doesn't sell anything and it is not run for a profit, I mean it doesn't have to be a nonprofit organization, it's just not run for a profit, if it's a private site that doesn't sell anything, it's not regulated by this act?

MS. LEVIN: No, in fact a site doesn't have to make a profit to --

MR. LUCCHINO: Let's forget profit. It doesn't sell anything. It provides information. A library site doesn't sell anything. You can go on, every public library in the country has a site, a web page. The FTC wouldn't regulate that?

MS. LEVIN: It could well not fall within our jurisdiction, but this is one of the things that we'll be working out in the rulemaking. Certainly, my understanding that most libraries were nonprofit or state-funded or state entities.

MR. LUCCHINO: Let me get right to the point then, this site that Mr. Vachss mentioned this morning, nambla.org, national association for men and boy love association, would the FTC regulate that if they didn't sell anything?

MS. LEVIN: I couldn't tell you unless we looked really at its business practices. We would have to see whether or not it would be defined within the statute. Without knowing whether it -- if it's a tax -- if it's a tax exempt organization that is nonprofit qualifying under IRS standards, then -- and it has to be a true nonprofit, we would look beyond simply whether it's received an IRS exemption. But if it serves as a sham profit organization, it would fall within our jurisdiction.

MR. LUCCHINO: They don't want to make a profit. They just want to communicate with little kids.

MS. LEVIN: It may not. I can't tell you.

MR. LUCCHINO: Chances are the FTC language wouldn't help us, the statute wouldn't help us in that situation?

MS. LEVIN: Again, we're going to be able to address some of the problems, but not all of the problems.

CHAIRPERSON SIMON: Thank you. Deirdre, would you present your testimony.

MS. MULLIGAN: Sure. My name is Deirdre Mulligan, I'm a staff counsel, one of three, at the Center for Democracy and Technology. We are a nonprofit independent civil liberties organization that focuses on ensuring and preserving our democratic values and civil liberties as we move into this new medium.

From its inception in 1995, CDT has been very involved in two areas which I think of are interest to the Commission this morning, the first being how to achieve the goal of protecting children from inappropriate material on the Internet consistent with our constitutional values and with the growth and the global nature of this medium. The second being how do we deal with the issue of protecting individual privacy, privacy of both adults and children in the online environment, and I'm very pleased to be here. I think libraries, as both the gateway to information and knowledge and a very stalwart protectors of their patrons' privacy are very often in similar positions, issues that involve the Internet.

The rising popularity of the Internet and commercial online services and web sites, particularly those directed to children, have been met with rising concern about the vulnerability of unsupervised children engaged in activities online, and indeed while I think the Internet's potential is often overlooked in news stories and articles that tend to focus on the threats, there are some very real risks to children, and I think that I appreciate the forum to discuss how we create real solutions for those problems.

The issues that I think have generally gained the most press and raised the most public anxiety fall into three different boxes. One is protecting children from inappropriate information. Two is protecting children from those who seek to harm them, and the third is protecting children's privacy. This fall Congress passed its second effort to broadly limit access to certain types of information called harmful to minors information on the Internet.

It also visited several proposals to look at mandatory filtering within libraries and other publicly funded institutions. It also, as Toby discussed, passed a bill to protect children's privacy. I think that craft thing is safe in enriching an online environment whether we're looking at the 1st Amendment issues, and the privacy issues requires us to really think about how those rules impact not just on children and their safety but also on the diversity of information that's available and the privacy of all those things who are interacting in the online world.

I think that the task that the National Commission on Libraries and Information Sciences has is not an easy one. When we're dealing with children and access to information, we have an Internet that does not have a children's section, quote unquote, like many libraries do, and I think that the task that libraries have before them and that communities have before them in figuring out how to guide and educate their children and ensuring that they have an enriching experience online is not one that is easily mirrored in the offline world.

We have had a discussion, at least briefly, about the jurisdictional issues that arise on the Internet, that we can craft laws here that will not necessarily impact on the broad types of information that are available locally. Right now we have many filtering technologies that are becoming more robust and more flexible.

However, if forced to choose between different commercially available filtering technologies, I believe that libraries today are being forced to choose between their obligations and their desire to maintain adults owe access to constitutionally protected speech and the more limited choices that filters often offer, and as many of the libraries that have looked at the filtering technologies that are available, you find that they screen out things that go far beyond what many people think are harmful to children, and so that libraries right now with their existing resource constraints are really, I think, looking at how to create a

best practices in libraries. Many libraries are looking at a combination of educational efforts and working with parents to try to figure out how we craft appropriate guidelines that are not necessarily one size fits all, and I hope that the Commission will continue to look at that issue. It's not an easy one.

In the area of children's privacy, I would suggest that the Commission has a huge opportunity to play a very important role in our discussion. As Toby discussed, the legislation that was enacted is a real step forward in that it will seek to do what libraries have done very well for many years, which is protect the privacy of those who are seeking out information. However, when you're dealing with people, we traditionally do that in kind of a notice and consent model, and as an adult that works very well. You tell me what information you collect, and we enter into an agreement about how you as a library are going to use that information.

When we're talking about children and their interactions with web sites and others in the online environment, this is targeted at web sites which are dealing with children, not the broad array of web sites because you don't want to actually force people to collect information about the age, because that puts people more at risk by identifying them.

But web sites that are targeted at children have to take special precautions, and those precautions involve interacting with parents. Parental consent, as you said, is not an easy thing to figure out how to do in the online environment, and I think the last thing we want to do is invent some cumbersome mechanisms that interfere with timely access to information unintentionally, and that is clearly not the goal.

I worked very closely with the Federal Trade Commission on this bill, but I think it's incredibly important that librarians and others who are involved in kind of acting as parents in certain situations or not necessarily acting as parents, but are the next best thing really be involved in figuring out how these rules work in public institutions, and so I would encourage you to look at this issue yourself and if you have any thoughts to please make sure that they're heard in the Federal Trade Commission rulemaking.

CHAIRPERSON SIMON: Thank you, Deirdre. Any comments from any of the commissioners or questions?

MS. CHALLINOR: I have a question.

This may sound rude, but it is not meant to be rude. I hear again and again that parental consent is enough. As an old social worker, if I gave my child parental consent at four years old to stay out all night and walk the streets, what would happen?

MS. MULLIGAN: Certainly, what we're talking about here is personal information. I think many of the -- we as a society set rules about children's safety, and unfortunately, I mean, there are parents who do make decisions to let their kids walk around the streets. Sometimes they get hauled in for abuse and neglect. Sometimes they don't.

MS. CHALLINOR: So something happens? There is a mechanism to protect that child. If I signed a slip saying that I don't care whether my child goes to school or not, there is a mechanism to protect that child. In other words, what I'm struggling with is, in some ways we know what is dangerous for a child, and I can't come around that we know in certain circumstances but when we're faced with pedophilia we sort of say, well, we're not sure, and this and that and parental consent is enough.

MS. MULLIGAN: Actually I'm not --

MS. CHALLINOR: Am I doing this wrong, have I got the wrong handle on this?

MS. MULLIGAN: Certainly, from my perspective I'm not a specialist in kind of child advocacy or in people who are pedophiles, those child safety issues. I work on kind of access to information, 1st Amendment and privacy issues, and the privacy bill that was passed I think will afford children some added protections against people who would actively solicit information from them.

However, the same way that kids can go out and pick up a telephone or from their own home pick up the phone and make a phone call, we haven't said kids can't use the phone because they wouldn't be able to call 911, they wouldn't be able to call 411, and they wouldn't be able to call the pedophile, and I think similarly on the Internet you're looking for rules that get a bad behavior but don't necessarily turn the Internet into a TV.

I think that my only message here is not that I know all the answers, but that this is a real difficult puzzle, and I'm really pleased to have the opportunity to work with you and the other participants here on figuring it out.

MS. LEVIN: If I may just add, since the statute requires a parent to provide affirmative consent for those certain activities which might -- in which a child might reveal their identity on the sites that are covered by the statute, those parents who don't act to provide that consent for whatever reason, they don't know about it or they don't understand the issues, if they don't provide the consent, their child would be protected because they would not be -- the site would be barred from collecting that child's information or allowing that child to participate in that activity. The reality is that, and I hear this from businesses involved in these activities, the legitimate ones, that they are going to be reshaping how these activities are done.

Some sites have what they call delayed chat where they filter in advance the information for a lot of reasons because some of it is very inappropriate, and to make the chat an opportunity to have some communication without any revelation about who the child is. They use screen names. Some of the legitimate companies are coming up with ways to make interaction a safer activity for children as well.

MR. WILLARD: I think it's important to remind everybody that the focus of the hearing today is on kids and the Internet, and while much of the testimony so far this morning has focused on what I would characterize as the much more troubling aspect of predation, pedophiles, and lesser access to pornographic material, a third related but unrelated topic is the whole collection of personal information about kids and their families, and our focus in this particular session is not on those earlier subjects but simply on the privacy collection, and that's where parental consent is being sought. I don't think there is any intention to solicit parental consent for some of the earlier maladies we talked about.

MS. LEVIN: If you're interested actually in the law itself and following up our FTC activities to implement it, again, please go to our website. You'll see there is an about privacy link on our home page.

CHAIRPERSON SIMON: And pick up the information that you left on the tables outside?

MS. LEVIN: Right.

CHAIRPERSON SIMON: We thank you both very much.

MR. LUCCHINO: Wait, I have a question. I want to ask you a question, MS. Mulligan. The Center for Democracy and Technology, it's still unclear to me what your philosophy is. Is your philosophy of this organization that there should be no impairment of anybody's ability to get on the Internet in a public library or do you fall in a different category? I'm not clear what your organization stands for.

MS. MULLIGAN: I'm not sure I'm clear on your question, but I'll try.

MR. LUCCHINO: Do you take the same stance perhaps as the ACLU, that nobody should restrict anything to anybody? I'm not suggesting that's their position, but something like that.

MS. MULLIGAN: I wouldn't want to characterize another institution's position, but I'm happy to do my own.

MR. LUCCHINO: Okay, characterize yours.

MS. MULLIGAN: We clearly think that the Internet, as the Supreme Court's decision in *Reno versus CMU* says, provides an unprecedented opportunity for our personal values. Access to information, ability of individuals to become publishers and speakers, to reach around the world, and we are very, very anxious to ensure that any solutions to deal with the issue of protecting children do not turn the Internet into a playground.

That does not suggest that we don't think there are solutions, and we clearly do. For example, within the context of the home, I think it is completely appropriate for parents to voluntarily choose to use filtering tools, to monitor, to block, to do a variety of things to deal with their children's activities. Many of the proposals that have been put forward to deal with access to information in the context of libraries have been mandatory filtering proposals that would not just protect children, and they clearly would not just protect children from information that the state is constitutionally allowed to limit access to.

It would limit access to a much broader category of speech, and it would have the impact of not just limiting children's access but limiting the access of adults to that information.

MR. LUCCHINO: Let me ask you this question with regard to public libraries: Would your organization be in favor or opposed to our public library or any public library limiting the ability of children in special sections to not get on the chat pages?

MS. MULLIGAN: I think that the chat issue is a difficult issue. I don't think we have an institutional policy. I can tell you that tomorrow if you institute that policy, we would not be rushing in to litigate. I think there are some real challenges. There are -- for example, the American Library Association itself, I believe, offers kind of a question and answer help service for homework for kids. I wouldn't want to see a chat rule that eliminated that. The National Zoo here in D.C. allows kids to get online and ask questions of the zookeepers. I wouldn't want to eliminate that.

So my question is not, you know -- I certainly share your intent of having to protect children, and I'm certainly the person that's going to sit at the table with you and figure out how to do it. Can I tell you whether or not I think a blanket rule saying no children shall ever be allowed to engage in chat is the right answer? No.

MR. LUCCHINO: From a children's section of the library.

MS. MULLIGAN: I can't say that I would say that's the right answer. I can say that I honestly think there are risks to children posed in kind of that interactive

chat, and that I think that there are real things that could be done to address some of those risks.

MR. LUCCHINO: Well, Mrs. Gould has advised us that in the Washoe County library, children cannot do chat, so obviously they can't do chat at the zoo or at any other place if, in fact, what I heard her say was accurate, that they block all chat. Let me finish.

MS. GOULD: Yes and no.

MR. LUCCHINO: It's always yes and no. The question is for those of us who are trustees, we have to make a decision. It's not yes and no. It's how can you do it and how can you do it technically. Let me ask you the next question. Is your organization opposed to filters on children's rooms computers while we still have adult computers that have no filters?

MS. MULLIGAN: We have not taken an official position on that I would be happy to respond to the Commission in writing. I would need a specific proposal to review. In general, certainly at if the Federal government was to legislate mandatory filtering.

MR. LUCCHINO: No, my library does.

MS. MULLIGAN: I think your library, depending on the funding, it may not raise constitutional questions, although I would be surprised if it didn't. But I think it clearly still raises some questions about the public policy, and I would - I'm happy to get back to you, but I would have to look at the situation.

CHAIRPERSON SIMON: May I urge the commissioners to be very brief. We're running short of time. I hate to cut anybody off. Abe, Joan?

MS. CHALLINOR: I had my question.

MR. ANDERSON: A simple technical question for Mrs. Levin. Would you explain to me where 12 years old became some kind of barometer? I have known children who were 13, 14, and 15 years old who have been sexually abused by predators. I have known children in that age group who have been killed. I also know, and I'm not an attorney, I'm sure the attorneys would support this that a child 13, 14, or 15 years old is certainly a child and cannot give informed consent. Where on earth did you get 12 and why?

MS. LEVIN: Well, we looked at this issue as Deirdre and others have been --

MR. ANDERSON: Did Deirdre help you with that decision?



MS. LEVIN: Many, many people over a period of two, three years have discussed the issue of how to approach privacy protections. The decision was made that this was a first step in the process. I can only say to you that in two months we went from a bill to legislation. I don't think there is any other bill out there that saw that kind of lightning speed.

MR. ANDERSON: Is the answer you don't know?

MS. LEVIN: Excuse me one moment. On the other hand, the Commission is also committed to make an assessment at the end of this year on adult privacy including children over the age of 12 and to make a recommendation with regard to how to address that issue. And so we will be looking at how self-regulatory efforts have been working in the marketplace at that time, at the end of this year, and then we will follow up with an assessment at that time.

So I don't want you to think that we are just throwing older children out the window. This legislation selected the focus on the younger child because it was the easiest issue in terms of developing a consensus. The issues get much more complex when you're dealing with adolescents who may want access to information that their parents may not want them to have access to, and there is some different types of privacy concerns for teenagers than with younger children, and we wanted to try and look at that in the context of the adult privacy so that perhaps teenagers would be given notice of information practices and have more control over their own information.

The role of parents may be a little bit more difficult in that area, but not to say that there might not be a role for parents. In fact, our original recommendations is that there be at least notice to parents. So we're still working out that how to address that age group. And as I said, it's not a closed door at this point.

CHAIRPERSON SIMON: What you're saying is this is only the beginning, Toby, and there is a lot left to be done. Deirdre, one final word.

MS. MULLIGAN: If I may, just because you asked, if we were involved in drafting the Federal Trade Commission's bill that they're about to proceed implementing -- and clearly we and many other organizations were involved. CDT has been pushing for comprehensive legislation to protect the privacy of all Americans, not just kids, and so, you know, we anticipate continuing to work with the Federal Trade Commission and Congress on moving such legislation. Of particular importance, this bill doesn't just say you must get parental consent before you collect information, it creates a mandatory right of access to information about children's activities in the online environment by other parties.

If you can imagine as a library this means mandatory access to records about everything that a child, and if a child is defined as someone up to 18, that everything they've ever taken out in the library would be open to their parents.

You can imagine that this raises a number of considerations that go beyond the parental consent model for collecting data, and that there are real reasons why an 8 year old and a 12 year old or an 8 year old and a 17 year old may be treated differently, and that their parents' privacy interests and their interests in privacy may not always be coterminous. I think it's appropriate and Congress took a responsible step in dealing with kids who are kids and looking at teenagers as a slightly different bag of string, and I think we will see rules in that area, but I think they will be slightly different.

CHAIRPERSON SIMON: Thank you very much, Deirdre. We'll conclude this panel. We'll take a three minute break and assemble our next panel and try to keep things moving.

(Recess.)

CHAIRPERSON SIMON: We're going to start again with a panel of three. We may have to shorten the lunch hour because we love to talk, and because everything is so important. The only thing we can cut that won't hurt us will be the lunch hour, and then if Frank and Abe will sit down, we're going to start with panel 3. This panel has to do with filtering. I understand we have a person on the telephone. Is this working? David Burt, are you there?

MR. BURT: Yes, I am.

CHAIRPERSON SIMON: Oh, my goodness.

MR. BURT: Loud and clear.

CHAIRPERSON SIMON: You can hear us, we can hear you.

MR. BURT: You're a little faint.

CHAIRPERSON SIMON: We will try harder, David. The first person on the panel is Bruce Watson, the president elect of Enough is Enough. Bruce, would you proceed, please.

MR. WATSON: Thank you. Good morning, I'm Bruce Watson. I appreciate the opportunity to be here. Enough is Enough is a national organization dedicated to making Internet safe for children and families. I would like to address two issues. One, is Internet pornography and sexual predation really a problem? Second, what do parents expect of libraries in this situation?

With respect to the first question, frankly, it is no longer in serious dispute that the problem exists. As one example, the gathering of 400 people in D.C. last December, at the White House initiated Internet online summit focus on children was an explicit recognition of sexual pornography and predation as a problem affecting children.

The published comment of one senior ALA official that quotes only one child out of a trillion billion might use library computers to seek porn, suggests that it is still necessary to speak to the issue in this forum for the record. At Enough is Enough, we focus on what we believe to be the two primary targets to children online -- children's easy access to pornography and pedophiles' easy access to children. Many libraries have already chosen to reduce the danger to children from online predators by not providing access to chat rooms, news groups and E-mail, which we would agree with, but this does not protect children from pornography on the Internet.

Estimates of the number of commercial pornography sites online vary between 40,000 and 100,000 or more. More importantly, these are the most frequently visited sites on the web. Last year the Wall Street Journal noted that while many other web outposts are flailing, cyber porn is fast becoming the envy of the Internet.

As a result, hard core pornography is stunningly easy to find on the Internet. This can be demonstrated by a simple, unfiltered word search on the standard search engine like Yahoo for words as innocent as woman, girl, boy, dollhouse, gang, or pets. To require hormonally super charged 14 year olds to keep saying no to the resulting offerings from unfiltered browsing is unrealistic. The protection of minors from pornography should not be entirely up to their own self-discipline. Even more disconcerting are the many stealth words used by Internet pornographers. Whitehouse.com, as opposed to whitehouse.gov, sharware.com, which is a typo away from the popular shareware.com site or bambi.com which has nothing to do with Walt Disney. In many cases the child entering the look-alike name into a browser is taken directly to a porn site.

Given how easy it is for children to encounter pornography online, is there any reason to believe this is not happening in libraries? Well, absent filtering, why wouldn't it? In fact, each month does bring more reported instances which are documented in our files and those of Filtering Facts. Because of the time constraint I won't go through examples, but there are some in the written submission that I will leave behind. To move to the second question, what do parents expect of libraries in this situation? I would suggest that most parents have a very simple expectation of the local libraries in response to the mixed blessing of the Internet, and it is simply this: Don't change the library's selection policy just because of a new technology. In other words, if the print equivalent of a website would not meet the library's selection criteria, why carry the online version?

Some respond that the only historical constraint on library acquisitions has been financial, and the Internet removes the financial constraint. But the Internet, of course, doesn't remove financial constraints, it just changes the measure. More importantly, selection policies are not set by purely financial constraints unless you have unbounded belief in the power of coincidence.

To illustrate, if you search a number of libraries for a given piece of only moderately popular print fiction, you can expect that some will have it and some won't. But if you look for the print version of *Hustler* or the video of *Debbie Does Dallas*, you won't find them anywhere in public libraries. That's not coincidence because selection criteria are based on more than budget constraints. Such materials have never been considered part of the mandate of a public library. Why start now? And why for kids? I've seen it argued that if parents wouldn't drop off their kids to spend an hour unsupervised in the middle of New York City, then they shouldn't drop them off in the library and expect free babysitting. Well, librarians aren't babysitters and shouldn't be expected to be, but it's a long way from the Supreme Court's description of a library as, quote, a place dedicated to quiet knowledge and beauty to Central Park New York City. If libraries choose to redefine themselves as now being an unsuitable environment for unaccompanied minors, they can reasonably expect to lose the support of the patrons and their constituencies.

Intellectual freedom is an important value in our society, and so is protecting kids, but the issue isn't which values should trump the other. It's simply there is nothing intellectual about hard core pornography. Accordingly, we believe that libraries should filter Internet access for minors unless the specific child's parents have given approval for unfiltered access. The 1st Amendment will not fall in ruins if libraries continue their time honored policy of not providing pornography to children. Thank you.

CHAIRPERSON SIMON: Thank you very much, Bruce. Do you have any comments or questions of Mr. Watson?

MR. LUCCHINO: Mr. Watson, as a library trustee, at what age should I say that we require parental consent to see unfiltered, have an unfiltered use of the Internet?

MR. WATSON: Traditional definition tends to be under 18 or perhaps under 17. Under 17 is also the definition that's used in the current Child Online Protection Act. Is that rough justice? Yes, there is. There are 13 year olds, 14 year old kids who could handle themselves responsibly.

There are also 13 or 14-year-old kids who could handle themselves responsibly with weapons, but we don't choose to make it available to them, but there are

13 or 14-year-old-kids who could drive responsibly, but you have to wait until a certain age.

MR. LUCCHINO: And so I understand the position of your organization or you, that a library should restrict access to a computer that is unfiltered if the person is under the age of 18 unless they have the specific written consent of their parent?

MR. WATSON: That's correct.

MR. LUCCHINO: Thanks.

CHAIRPERSON SIMON: Abe?

MR. ABRAMSON: Can you just give me a small word picture of the genesis of your organization? Was it in reaction to a specific incident or series of incidents or is it a spinoff of a group of parent teachers? I'm not familiar.

MR. WATSON: We have been in existence since 1992. Initially our concern was the spread of pornography through society generally. About three or four years ago, as we saw what was happening on the Internet, and particularly the impact on children, we changed our focus, as our focus is making Internet safe for children and families.

CHAIRPERSON SIMON: How large is your organization?

MR. WATSON: We're not a large organization.

CHAIRPERSON SIMON: How many members?

MR. WATSON: In terms of support, our mailing list, our total mailing list is approximately 19,000 names. Our full-time staff is very small.

CHAIRPERSON SIMON: Further questions or comments?

MR. LUCCHINO: Because we face this issue on a real basis at the public library level, because all our funding comes from the public, it is so easy to get elected officials riled up about this subject, and those are the same people we have to go to, to get the millions of dollars that we need to operate our public library.

How would you deal with the issue of a parent who says that I want my 8 year old to have access to unfiltered information, access to chat rooms? Should we allow that in the public library?

MR. WATSON: I think in the case of chat rooms, there is very logical reasons why libraries, many libraries are deciding not to provide chat rooms period. The chat rooms is a separate situation from the Internet access.

MR. LUCCHINO: But the parent says specifically, allow my child to do that, do we have any other obligation as a public institution?

MR. WATSON: To me there is nothing in the nature of the Internet that suggests a seamless home. I mean, the analogies of the different parts of the Internet are quite different. E-mail could have an analogy to U.S. mail, chat rooms could have an analogy to conference calls on the telephone.

The web sites are somewhere between print and broadcasting. You figure out which. That to me suggests there is no logical reason why a library has to feel compelled to provide all the aspects of the Internet. It may not be within their mission.

MR. LUCCHINO: What I'm saying is we have a parent who specifically asks us to. Is there a certain age that below which the library needs to exercise its own judgment regardless of what the parent says?

MR. WATSON: There would be a difference between what I would support and what I would strongly advocate. I would support a library which took the decision that, no, we're not in the business of providing access at all below a certain age because they haven't been in the past.

Recognizing there are different views on this, there is going to be a place for compromise. On a compromise basis for me if the parent has specifically requested it, then I'm not going to dig in my heels indefinitely.

CHAIRPERSON SIMON: Further comment, questions? Thank you, Mr. Watson. Jan LaRue, you are the next person. I understand you have some testimony you wish to offer for the record?

MS. LaRUE: Yes, I've given my statement that is a copy of what I will make here today. Also I would like to submit to the Commission for consideration a copy of the testimony given by Detective Derrick Rowland of the Huntington Beach, California, police department before the United States Senate subcommittee on Communications, a hearing on the subject of the necessity for software filtering in public schools and libraries to protect children from exposure to pornography and sexual predators. I assisted Detective Rowland in the preparation of this statement and can authenticate it.

CHAIRPERSON SIMON: Thank you. That will be part of the record.

MS. LaRUE: Also a copy of the results of a worldwide web search I conducted on September 8, 1988 using toys as a search --

MR. ABRAMSON: You said 1988. You meant 1998?

MS. LaRUE: 1998. Did I say '88? The search resulted in 159,499 hits. The second hit was for sex toys, adult sex toys, sex toys, erotica toys, cyber sex toys. The attached documents are copies of what I was able to see and download without any proof of age, credit card, adult PIN number or adult access code. The same material would have been viewable and retrievable by any child. There are copies here. All depictions of sex acts.

In addition to that, I would like to submit a copy of the memorandum of law prepared by the National Law Center for Children and Families on the subject of the Internet and the legality and constitutionality of the use of software filters. I'm a coauthor of that.

CHAIRPERSON SIMON: Thank you, Mrs. LaRue. Ms. LaRUE: I'm the director of legal policy for the Family Research Council. We are very concerned about the protection of children online. We appreciate very much the wonderful opportunities for information available to children, but we are extremely concerned about the access children have today to not only inappropriate material but to very dangerous individuals.

It's crucial to analyze the appropriateness and constitutionality of the use of software filters in public libraries within the proper 1st Amendment framework. That necessitates understanding the distinction between situations in which the government is acting as sovereign, meaning regulating private speech, in a limited public forum as opposed to situations in which the government is acting as patron or provider of speech. In the context of a public library, the government is acting as patron provider and not as sovereign. In choosing not to provide certain speech as a patron provider, regulations more intrusive than what may lawfully apply to the general public are permissible. In the recent Supreme Court case, *NEA v. Finley*, the U.S. Supreme Court acknowledged that there is no constitutional obligation to provide government funding for the arts.

The court said, quote, And as we held in *Rusk*, Congress may selectively fund a program to encourage certain activities it believes to be in the public interest without at the same time funding an alternative program which seeks to deal with a problem in another way, close quote.

The government has not discriminated on the basis of viewpoint. It has merely chosen to fund one activity to the exclusion of the other.

There is a basic difference between direct state interference with a protected activity and state encouragement of an alternative activity consonant with legislative policy. There is also no constitutional requirement for the government to provide access to pornographic images in public libraries. Even though an individual has a right to access 1st Amendment protected pornographic images through his or her own computer via an internet service provider there is no constitutional right to do so through a government funded computer in a public library. As the Supreme Court held in *Capitol Square Review Board versus Pannett*, quote, It is undeniable, of course, that speech which is constitutionally protected against state suppression is not thereby accorded a guaranteed forum on all property owned by the state.

Environments such as prison, public schools, the military, or the government workplace, quote, must allow regulation more intrusive than what may lawfully apply to the general public, close quote.

The distinction is often phrased in terms of differential standards of review applicable to the government when it acts in roles other than sovereign, but it may be more apt to conceive of it as a distinction between government regulation or public discourse generally and government regulation of speech within governmental institutions. More emphatically, it is inconceivable and unsupportable to argue that the government must provide access to illegal pornography through public libraries. There is an absolute and enforceable criminal prohibition under current Federal laws against the transmission of obscene material and child pornography over Internet, use net, worldwide web, bulletin board systems, chat rooms, E-mail and other online services.

It is unlawful to transmit obscenity and child pornography by computer transmission and services which uses phone lines and common carriers, just as it is by mail or any other method of interstate or foreign commerce. Obscenity and child pornography are not protected by the 1st Amendment and are not within the area of constitutionally protected speech or press.

The dissemination of sexually explicit material legally defined as harmful to minors involves the safety of children, a matter of surpassing public importance. Most states have enacted harmful to minors legislation patterned after the U.S. Supreme Court of *Ginsburg versus New York* which upheld controls on the dissemination of harmful matter to minors, even though that matter may not be obscene for adults. In *Ginsburg* the Supreme Court definitively held that protecting children from exposure to obscene and harmful material satisfies a compelling governmental state interest. This was reaffirmed by the court in *Reno versus ACLU*, which reviewed the Communications Decency Act.

The voluntary and discretionary use of filtering screening software by libraries in schools, both public and private, as well as by private companies and



institutions. To assist in preventing the acquisition of illegal and objectionable pornography from the various interactive computer services available through the Internet and other online databases, and to restrict access to sexually explicit pornographic material on computer terminals is lawful and fully consistent with the Constitution.

Just as a library or school has broad discretion in selecting books, magazines, and videos for their collection, avoiding an inadvertent or involuntary selection or acquisition of pornography by employing a software program or other screening service allows for the screening or filtering of that material which the library or school would not otherwise have chosen for its collections.

MR. ABRAMSON: You're putting us in a time bind here a little bit. You're putting us in a time bind. If you could conclude.

MS. LaRUE: Yes, libraries, schools and businesses making good faith use of such access, restriction software to prevent children or to avoid illegal materials for adults is protected from liability by the Good Samaritan immunity provided by the CDA, and that includes the inadvertent blocking of material that is constitutionally protected.

In closing, I would just say that the viewing of pornography in public places creates an offensive and uncomfortable and humiliating environment for women, for coworkers, and could place libraries as it would other businesses and schools in jeopardy of creating a hostile work environment in violation of title VII U.S. Code.

Thank you.

CHAIRPERSON SIMON: Thank you. I realize you did shorten your testimony somewhat, but we have the written record here.

MS. LaRUE: Yes.

CHAIRPERSON SIMON: There are comments on what we have just heard or questions? Yes?

MS. GOULD: We have a gentleman on the telephone. Mr. Burt?

MR. BURT: Yes, I'm here.

MS. GOULD: Do you have any comments you would like to make?

MR. ABRAMSON: He is going to testify.

MR. BURT: I'll wait for my testimony.

MS. GOULD: Okay, fine. I sort of got lost here for a minute. If I understand both of you, you advocate that libraries, both school and public, use the same selection standards for selecting appropriate sites that could be interactive as a standards used for print materials?

MR. WATSON: That is certainly our position. That's consistent with the Supreme Court's ruling in the Reno case which was that the Internet deserved to be given the same protection as print. Not more.

MS. LaRUE: Certainly schools have a right to restrict much more than the illegal pornography I mentioned which is obscenity, child pornography and material harmful to minors. They are also guided by the selection process of what is or is not educationally unsuitable and what would be pervasively vulgar. Certainly as I said, I believe that even if we concede that a library is a limited public forum, in that context it is constitutional to discriminate on the basis of content and not viewpoint. So it is perfectly permissible in our opinion for a library to refuse to carry any pornography whatsoever, and yet still allow in material that would address, for example, sex education materials that are legitimate, sexually transmitted disease material, and so forth, because they are separate and distinct from the definition of pornography.

MS. GOULD: And you did not have a problem with libraries having access to Internet sites that address these issues?

MS. LaRUE: Absolutely not.

MS. GOULD: Thank you.

CHAIRPERSON SIMON: Joan Challinor?

MS. CHALLINOR: Are you here, Miss Larue, for your office or for yourself?

MS. LaRUE: For both, but I do represent Family Research Council, yes.

MS. CHALLINOR: So that we may judge some of your opinions about sexual pedophilia and things like that, what is the opinion of the Family Research Council on homosexuality.

MS. LaRUE: On homosexuality?

MS. CHALLINOR: Yes.

MS. LaRUE: We find homosexual conduct to be generally unhealthy and dangerous to the individual and to society, the conduct.

MS. CHALLINOR: So I take it that you would not want anything on homosexuality to be on anything that a student --

MS. LaRUE: Oh, that's absolutely not true. Any legitimate material. We are objecting to pornography which is merely the propagation of sex for a prurient interest, and we do not object to any sex education material, whether it be homosexual or heterosexual.

CHAIRPERSON SIMON: Frank?

MR. LUCCHINO: Where the rubber hits the road for us in the public library is every day. What's the position of your organization on nudity? Everybody uses pornography. Now, we have people who are patrons of ours who if a nude image is shown, they view that as pornography, Justice Stewart I think it was, who said I'll know it when I see it, and then indicates that everybody sort of has a different view. Would your organization categorize nudity, male and female, just alone, not in any kind of sexual situation, as being pornography?

MS. LaRUE: Absolutely not. Justice Potter Stewart said a few years later that he not only knew it when he saw it but he could define what was obscene under Miller versus California. He described hard core sex acts, and they were far beyond nudity. They were lascivious observations of the genitalia, and clearly not any material that had any serious literary artistic, scientific or political value.

MR. LUCCHINO: Centerfold of Playboy, pornography that should be blocked or not blocked?

MS. LaRUE: Centerfold you won't find in the medical textbook. It would depend on whether you were looking at the definition of obscenity or the definition of material harmful to minors whether it would be in violation of the law. Generally, it would not violate obscenity laws.

MR. LUCCHINO: That's the question we're confronted with every day. It's wonderful that we talk about it in a theoretical sense here, but those people in the audience who are librarians or trustees get confronted with this we have people who don't want us to show something similar to the centerfold of Playboy.

To them that's pornography. I'm just wondering. So your organization's position would be that that's not pornography, and it's okay?

MS. LaRUE: Well, it may be pornography, but it would not meet the definition of obscenity. Pornography generally means generically material that is designed to arouse or gratify the reader, viewer or listener. I think that's MR. Hefner's intent, and that's why the magazine sells.

MR. LUCCHINO: Let me make it harder. Nudist site, nude beach, picture of a nude family on a nude beach. Can we show it? Should we lock that in our public library?

MS. LaRUE: You would have to decide based on the way the individuals are depicted. If this is an artistic nature photograph of a family, a nude family on a beach, that may or may not be obscene. I think it would have to clearly be more. It has to be a lewd exhibition of the genitals to be material that could be excluded.

MR. LUCCHINO: Thanks.

CHAIRPERSON SIMON: I think we might want to hear from David Burt via speaker phone.

Mr. Burt?

MR. BURT: Yes, I'm here. Can you hear me all right?

CHAIRPERSON SIMON: We can hear you fine.

MR. BURT: Well, thank you for having me here and being willing to allow me to testify via speaker phone. I closed the doors, I hope you can hear me.

MR. ABRAMSON: Your voice is trailing off.

MS. GOULD: You went away.

CHAIRPERSON SIMON: A little louder, please, David.

MR. ABRAMSON: Closer to the mike.

MR. BURT: Is that better? I'm currently employed, my name is David Burt, I'm a practicing librarian. I'm currently employed at the Information Technology Library at the Lake Oswego public library. I've been an American Library Association member since 1991. In August of 1997 I started an organization called Filtering Facts, an organization dedicated to checking children in libraries because I was deeply disturbed by the position taken by my librarian colleagues at the American Library Association regarding filtering the Internet access of children.

I'm sure we're going to hear many times today that filters simply don't work. I do not believe the evidence supports this view at this time. Unfortunately there are no good scientific studies to tell us how well the filters in public libraries work. There is no evidence to suggest that the filters that are used today by

public libraries block more than a few dozen or perhaps even a few hundred sites by mistake.

The published reports about filters published by antifiltering activists support this claim. In December of 1997, a group calling itself cyber patrols of the blocked site and found about 60 sites that were clearly blocked inappropriately. In the Loudoun County case the plaintiffs claim about a hundred sites were inappropriately blocked. The defense claims the number is far less. Let's get some perspective here. The precise number of individual web sites is not known, but it's widely believed to be in the millions. Fifty or 100 sites out of millions is a tiny, tiny fraction of one percent of the entire Internet.

It would follow, then, that public libraries who report few complaints from patrons about incorrectly blocked sites indeed, quick survey I did last year of 24 public libraries that filter showed an average of 1.6 complaints per month.

If the child using the filtered Internet terminal encounters an incorrectly blocked site, most libraries have a policy of overriding that upon request. This helps to frame the situation by filtering or not filtering for children. A library could either require children to ask permission to see a tiny fraction of one percent of the entire Internet or they could expose the children to 7,000 pornography sites. Because of the lack of strong data, I would like to suggest that this Commission take the lead in printing some better data. I think they have conducted a study that would tell us what we need to know would be pretty straightforward. Such a study would involve writing a special computer program that would run on Internet work stations in several public libraries that would either filter for all patrons or all minor patrons.

First, the program would support the address of every website that every patron visited.

Second, the program would record the address of every website someone tried to access but was blocked by the filter.

Third, the program would report if the filter were overridden in any of the cases where a patron encountered any inappropriate block.

With this method we could actually get a reasonable idea of, one, what exactly are patrons being permitted from viewing in library via filter; two, how often are patrons prevented from viewing sites they want to access; and three, when a patron encounters an inappropriately blocked site, how often do they ask for help. This Commission embraces the rights of a child to be filtered from hard core pornography in libraries. The compromise would be that all minors be required to use filtered Internet access with the parent having the option to grant their own children unfiltered access.

This solution first appeared in Boston, Massachusetts, public library after a much publicized controversy when the mayor of Boston ordered filtering on all Internet terminals. In Boston this compromise has proved to be both successful and positive. In Boston, when children have obtained their parents' permission to access the unfiltered Internet, they have automated this policy.

Dade County in Ohio has worked with a company to produce a custom sized filter in the library's database of patron records. All of the terminals are filtered. When an adult wants to, the patron simply enters their library card. It is determined to be an adult or a child based on the birth date of the record. A patron may have their own child's card allow for unfiltered access.

Let me say this much, this isn't my ideal solution. I believe that all minors should be filtered and it should be the library's function to provide pornography, but I'm willing to compromise. The American Library Association promotes this solution as well. I believe this compromise solution provided by ALA could defuse much of the controversy around unfiltered Internet access in libraries and would head off the need for any future state or Federal legislation. Thank you very much.

CHAIRPERSON SIMON: Thank you, David. We will be hearing from the ALA and other speakers who may differ with you on that. Comments from the commissioners?

MR. ABRAMSON: I have a question for each of you. It's not quite a yes or no question, but I'm not looking for a long answer. Recently there was in legislation a suggestion that no Federal funds might be used in a school or library unless the terminals were filtered. There was a position which wasn't -- I wouldn't characterize it in strictly political terms, but more of a libertarian position that suggested that Federal funds should be available as long as the local governance structure, which might be a board of trustees, similar to the one that I have served on, or in some cases it's the city council, had met and voted on a policy that was written, that that was all that would be required.

There are roughly 9,000 public libraries, including branches, maybe 17,000 locations. How do each of you feel on that specific issue of whether Federal funds should be conditioned upon having filters for children or just on a local policy?

MR. BURT: Okay, I can address that. I have supported that legislation. I think it's a good idea. I don't think --

MR. ABRAMSON: Which did you support?

MR. BURT: It should be used to provide pornography for children against the wishes of people's parents if parents want --

MR. ABRAMSON: Either you didn't understand my question or I'm not understanding your answer. Are you in favor of saying that you can't have Federal funds unless you filter for children or are you willing to have that just be conditioned upon the local trustees usually having a written policy that they voted on?

MR. BURT: I am in favor of Federal funding to filter. I think the problem with the local policy option is that according to the American Library Association, 85 percent of public libraries already have policy, and that includes libraries like the Los Angeles public library and the New York public library that have reported extensive problems with children accessing pornography, so this would just simply ratify what the existing status quo is, and it's not going to really do anything to address the problem.

MR. ABRAMSON: Just a point of information, I understand that with the exception of a little information collecting problem, that it's more in the 90 percent of libraries have written policies.

MR. BURT: That's probably accurate.

CHAIRPERSON SIMON: Did you want the other two to respond to that question?

MS. LaRUE: Yes, we supported that legislation as well, and I agree with Mr. Burt regarding the awareness of the committee which conducted the hearings, and I believe also it's in the legislative record that the awareness of local policies regarding parental consent, in feeling that that wasn't adequate to protect children.

MR. ABRAMSON: Not parental consent now. I'm trying to be very, very specific. The suggestion was that Federal funds would be conditioned upon having a policy about filtering. It had nothing to do with parental consent.

MS. LaRUE: Your question had to do with in spite of the fact that there was a local policy in which --

MR. ABRAMSON: No, I apologize for having so much trouble explaining it. The legislation said if you don't have filtering on terminals in schools and libraries, as it was originally written, if you don't have filters on terminals for schools or libraries that are accessible to children, you cannot have Federal funds. The alternative was, as long as the governance structure has a written policy upon which they have voted, and that is current, you can have Federal funds. We don't care what you require.

MS. LaRUE: Obviously, we supported the former, and requiring that if Federal subsidies are used that it would require the installation of filtering. It's quite common under Federal bills, and with grants to states that they have a hook in them, such as highway funds you have to have certain laws regarding drunk driving, and regarding to crime funding you have to have laws requiring the reporting of child sex abuse and so forth.

MR. ABRAMSON: I understand, but there would be a hook to say you have to have a local written policy that had been voted upon. That would be a hook.

MS. LaRUE: What is the local policy? I'm still not clear on your --

MR. ABRAMSON: It is whatever they have voted on. Community standards. I'm not advocating either position. I'm saying if you say you can't have Federal funds until you have voted on a policy which is writing and current, that's a hook, isn't it or isn't it?

MS. LaRUE: My understanding has to be that the local policy had to be that there would be filtering.

MR. ABRAMSON: No, that's not it at all. You had to have a local policy considered by the governance, in your community.

MS. LaRUE: It required installation of filtering.

MR. ABRAMSON: It didn't require you to have a written policy. But that is your position, you should have?

MS. LaRUE: Yes, that's what I'm trying to make clear.

MR. ABRAMSON: The other position, libertarian, whatever the local people want, as long as they have fully considered it would open the gates, if you will, to Federal funds. You're not an advocate of that position and I don't think Mr. Burt was, either. And now you?

MR. WATSON: I'll respond to that. The debate at that time was whether local filtering should be required or whether an acceptable use policy was sufficient. In my view, acceptable use policies are not the answer because there isn't a kid in the country who doesn't already know that using school or library computers for pornography is not an acceptable use. Not only do the libraries already have those in place, kids know that's not an acceptable use, so the policy doesn't really answer it. It does require the staff of requiring filters to be in place. If the filtering is -- if the funding is not tied to the filtering, then the government is, in fact, in a position of funding the distribution of pornography through schools and libraries.



The comment was made that the point of including the cost of putting the filter in increases the amount of money the government is putting in there, but on the same basis you could say that unfiltered water would be cheaper to supply in government buildings than filtered water. It doesn't make it acceptable so we support the legislation and acceptable use policies are not an adequate substitute.

CHAIRPERSON SIMON: Further comment, Mr. Lucchino?

MR. LUCCHINO: Question. Mr. Burt, I have a question for you, my name is Frank Lucchino, sir, I'm a trustee at the Carnegie Library of Pittsburgh and a member of the Commission. I read with interest your comments in The New York Times on October 15th when you evaluated five different cyber patrol or filtering systems, cyber patrol being one of them. Everybody I've ever talked to and some of our witnesses this morning have said any kid in time knows how to get around all the filtering systems that are put in. What is your comment about that?

MR. BURT: Well, it depends on the type of filtering. For one, if it's being done at the server level, you know, not at the local work station PCs, but at a server level, much more difficult for the kid to break into it.

If it's done, if the filter is actually running on the PC the kid is using, a smart kid that has some insider information about how to disable it and is determined, yes, will probably be able to disable most filters. I don't know that we see a lot of evidence of kids disabling the filters in libraries. I have not read a lot of reports on that. I think that's because the use of these terminals is typically monitored. A librarian would observe a child doing something, disabling the filter, and they would lose their privileges or be disciplined somehow for doing that.

So I think this also points out that filtering is just a tool. It's only part of the solution. It has to be done in conjunction with monitoring children's behavior. You don't just simply put up a filter and then simply ignore the child. As a computer professional, that's not how I keep my work stations, I like to keep an eye on them, see what people are doing, make sure they're not abusing them and that sort of thing.

MR. LUCCHINO: So at our library, if our librarians assured the board of trustees that the filter was placed on at the server level, we could feel more secure that it would be more difficult to get around then?

MR. BURT: It's much more difficult, yes.

MR. LUCCHINO: Why is it that everybody pooh-poohs filters, is it as effective as you say if placed on at the server level?

MR. BURT: Well, I think it has to do with two things. First off, the first filters that came out three or four years ago relied heavily on word blocking technology, and people rightly so made a lot of fun of them because they blocked out things like breast cancer and Fred Couples and that sort of thing. The second is that people, for ideological reasons, when you ask these people that are so against filters, well, what would a perfect filter look like, what would an acceptable filter look like to you? They said, well, the answer is that there is no such thing, no filter would be acceptable to them. I think their reasons are more ideological than technological for approaching filters.

MR. LUCCHINO: Okay, thank you.

CHAIRPERSON SIMON: Any further comment, Martha, Joan, Abe? Thank you very much for the speakers. I'm sorry.

MR. WATSON: Can I add just one thing for the record. In addition to the written copy of my comments, I would like to add for the record I brought along a copy of the expert witness report of our vice president, Donna Rice Hughes in connection with the Lowell McCandy case on what minors can find on the Internet and also a short piece of ours on is pornography really so easy to find on the Internet.

CHAIRPERSON SIMON: We would be pleased to receive those into the record. Thank you very much, both of you.

MR. LUCCHINO: Can I ask Mr. Burt one question. I'm sorry, since we have you, Mr. Burt, and you seem to be an expert in filters, at our library, which is a large urban public library, if we placed a filter on server, which one would you recommend?

MR. BURT: There are several good ones, Web Cyber Patrol, Web Sense. There are a number of pretty good filters out there for that purpose.

MR. LUCCHINO: When I read your comment in the Times, you say Web Cyber Patrol is probably the best overall home PC filter that leads me to believe it's more for a home PC rather than in a server. That's inaccurate for me to read it that way, then?

MR. BURT: That's a true statement. That is generally a true statement, that the products tend to be -- they're intended more for home use than for school use, although that is changing. Web Sense is more for business, more in schools. The thing with Cyber Patrol it has about a dozen categories and you can just simply select the categories you want. The sex acts I think is the one that most libraries select, and of course they would not select hate groups or that kind of

thing which was very much political speech, which you would not, and I would not support blocking even for children.

MR. LUCCHINO: Do those filters, can they be set to block chat room access?

MR. BURT: Yes, they can.

MR. LUCCHINO: Now, I'm told that there is all different kind of chat rooms, some chat rooms you can get into off a web page and some that are just chat rooms. Unfortunately I am woefully inexperienced in understanding how they work. Can you help us with that a bit?

MR. BURT: That's correct. There is such a thing, there is a separate channel for Internet chat that chat rooms traditionally ran on, but that's correct. As of late, there is such a thing as web-based chat and there is also web-based E-mail and web-based use net and other Internet services for the web.

Then the challenge becomes rather than must simply blocking out all the chat for the filter companies, to find the web page chat and block those as well, so that gets to be a little more difficult. It's not quite as easy as blocking chat.

MR. LUCCHINO: Would we be able to block chat on specific web pages?

MR. BURT: Yes.

MR. LUCCHINO: Okay, thanks.

CHAIRPERSON SIMON: Thank you. Bob?

MR. WILLARD: One technical question. To what extent do any of the witnesses feel that domain restrictions like the XXX proposal or self-regulated, like the broadcasters codes before each program would apply to web pages?

MR. BURT: I think that's an outstanding idea. I think that would go a long way to solving a lot of the problems. As I remember, that Jessica Connor suggested, although I'm not a lawyer there is a potential for zoning of the Internet. I think that's really the long-term solution.

MR. WATSON: I would comment that we actually have a one-page piece describing what the Internet could look like. Where the only legislative requirement is to enforce existing laws, there is a huge amount that could be done by voluntary decisions. Zoning, the thing that I find curious, the only people who really adamantly oppose it are the ACLU.

CHAIRPERSON SIMON: And you have a paper on that as well?

MR. WATSON: I can send one for the record.

CHAIRPERSON SIMON: Would you mind?

MS. CHALLINOR: I think that would be valuable.

MS. LaRUE: I think if you look at the URLs, that it would take someone virtually brain dead not to be aware of the content of those sites when you get to all sex pedophilia. Some of the -- I don't know if there are any children present in here, but forgive me, but what I found in my search on toys you have a list of things such as teen fuck fest as a site.

The problem, as Mr. Burt mentioned, when the original filters dealt with word searches, there was a lot of legitimate material blocked, but if you go to the address, the URL blocking, it would be much more effective in preventing children from accessing the hard core material.

CHAIRPERSON SIMON: Further comment? Walter? Thank you very much. The morning session is over, and we will reassemble at 1:30.

(Whereupon, at 12:40 p.m., the hearing in the above-entitled matter was recessed, to reconvene at 1:30 p.m., this same day.)

#### AFTERNOON SESSION

CHAIRPERSON SIMON: All right. The afternoon session in our hearing on kids and the Internet is now in session. We are going to try to do a little better on time, better perhaps than we did this morning. At the end of our panels which have been already designated, we want to hear from those who appeared this morning desirous of saying something, Heidi Borton, Karen Gounaud, and Renee Olson, I believe. If anyone else feels inspired to give testimony.

MS. OLSON: No, I did not ask to speak.

CHAIRPERSON SIMON: You are who?

MS. OLSON: Renee Olson.

CHAIRPERSON SIMON: I want to make it clear to everyone if you were not invited but feel an urgent need to say something in this regard that we would welcome your comments, but they will have to be brief. With that, we will turn our attention to the startling wonderful panel over here this afternoon, led off by Ray Ewick, the new president of the Chief Officers of State Library Agencies.

Will you please proceed, Ray.

MR. EWICK: Thank you very much and good afternoon. I am Ray Ewick, director of the Indiana State Library and the newly elected president of the Chief Officers of State Library Agencies.

Members of the panel, distinguished colleagues, ladies and gentlemen, thank you for the opportunity to testify on this issue under consideration on behalf of the Chief Officers of State Library Agencies.

Let me begin by saying that I do not consider myself to be an expert on the issue. However, perhaps having raised two boys, having four grandchildren ranging from 13 to 5, and having spent several years assisting a state in building its network of on ramps to the Internet, do have a familiarity with the issue and understand some of the passion that surrounds it. Although the organization of the chief officers, which just celebrated its 25th anniversary, has not formally established a position with regard to children and the Internet, we have had several long, long discussions. It should it should not be surprising that an organization of the top library officers of 50 very individual and unique states has learned to respect our individual differences and sought to find common ground without trying to impose majority will. We have learned to investigate and to debate energetically, at times too energetically, I think, yet we seek the balance, a balance that honors each state's ability to support worthy common goals and yet allow diverse local implementation of those goals.

My testimony is to ask that in your deliberations you, too, seek balance. One of the most difficult things for me as a young parent was to learn to allow my son to play in the front yard, knowing that in an instant he could dart in the street and could be hurt or killed. I wanted to build a fence or to keep him in the house, but I knew that I would not always be there and that he some day would climb that fence. I wanted for him all the freedom and the potential that this country encourages.

Truthfully, I watched him, I let him out under supervision, and I tried every cliché known to parents to teach him, not just the dangers of the street but the values of good character and trustworthiness, so that whether I was around or not he might choose the right action on his own. It did not totally eliminate the danger to him, and I suspect he forgot a few times, but as I have seen him instruct his son, I do know that he learned well.

Indiana is not unique among the states in the development of a telecommunications infrastructure utilizing the Internet as an educational, community information tool. State government, schools, libraries, higher education, and community networks are developing substantial content to be able to deliver to citizens on demand via the Internet the information they need, and it's happening today. For one thing, access Indiana has free information

from more than 65 state agencies, including a special teaching and learning center for parents, students, and teachers. There is a special area there dedicated to child safety on the Internet.

Secondly, the Indiana State Department of Education site provides interesting content and also information on safe approaches.

The Indian state library and the Indiana Cooperative Library Service Authority, with 800 member libraries has developed a project we call inspire. A project that for one million dollars provides Indiana residents with access to over 0 full text periodicals, from library, school, or from their home via the Internet, any Internet terminal. It links to safe sites, safe sites for kids, such as those selected by the American Library Association. We anticipate that Hoosiers will download almost nine million pages this first year. That is one and a half pages or every resident in the state and the cost is slightly over ten cents per page.

The future potential for the Internet or modeling and 3 D simulation, for distance education, for video store and forward, and for things that we have yet to imagine, requires us to explore and experiment with the technology so that those grandchildren can pursue the potential that is within them. It is important that we don't handicap their future with false restraint driven by our fear.

The dangers of the Internet, like those of the street, cannot be eliminated by mechanical intervention of filters or by legislation. At the same time, we have to realize that education, acceptable use policies, and good intentions will not totally protect our most valuable assets, either, our children. So I would ask that you realize states and local communities and librarians and trustees as well as parents are concerned and are at work.

A recent survey in Indiana indicated that 98 percent of the local libraries have adopted acceptable use policies and about 30 percent have chosen to put filters on at least one terminal for use by children. I hope that your investigations will result in shared information that can be used at the local level so our children can grow and be as safe as possible.

Thank you.

CHAIRPERSON SIMON: Thank you very much, Ray, for that testimony. Would any of the commissioners care to comment on what we have just heard?

We congratulate you for such a non-controversial statement, rather startling this morning. We next on this panel would like to hear from Ann Symons, the president of the American Library Association.

Welcome, Madam President.

MS. SYMONS: Well, thank you very much, Madam Chairman. On behalf of the American Library Association, I appreciate the opportunity to appear before you today. Let me be Frank. Much attention has been paid to the potential perils of the Internet. Far less public attention is given to the building -- to building the promise of the Internet, providing resources or the development of quality content like Ray must talked about, assuring that all kids have Internet access, and developing Internet literacy for generations who will live in a global information society. There are dangers we must address, but I firmly believe that the more we build the promise of the Internet, the more we crowd out and dilute the perils. I acknowledge that we must find answers to questions about child safety on the Internet, answers that will both allay parental fears and not make library staff members responsible for deciding what each and every parent wants his or her child to see or not see.

While filtering may seem an obvious solution, most of us know it's a quick fix at best. The technology is changing. The best and ultimate filter is the human mind. Knowing how to make informed decisions about what we choose to see, hear, and view is an essential skill in the information age, will it is in the library, at school, at work or in the privacy of your home.

Just as parents have to guide their children in what they can and cannot watch on TV, buy at the mall, and do after school, they must learn to teach their children what they feel is acceptable for them to view on the web. The opportunity for librarians to work as partners with parents by teaching them to guide their children in using the Internet is one of the most exciting opportunities we have today. Our children are growing up in a global information society. Kids who aren't logged on won't be literate in the 21st century. They need to learn the critical viewing and information skills that will lead them to make good judgments about the material they encounter on the Internet. They need to be able to assess as well as access information, to distinguish that which is useful and that which is not. We do not help children when we simply wall them off from information and ideas that are controversial or disturbing.

If they are to succeed in an information age, they must learn to be discerning users of information. While parents and other care givers are primary, librarians have a key role in helping all children have safe educational and rewarding experiences online. librarians do this by promoting access, quality, content, education, and local control. A key part of each is child safety.

I refer you to the safety tips from LA's librarians' guide to cyberspace and to the other material that will be attached to our testimony. In cyberspace it's difficult to find the good stuff. ALA has established a national reputation as a leader in promoting quality online resources, particularly for children. ALA also has a variety of tools to help librarians in their educational role. Many libraries offer Internet classes and training.

The debate over Internet access will continue for many years. I believe that education, time, and experience will help to resolve many of the tough issues we are struggling with today and to find that balance. But the debate must be resolved in such a way that protects all our rights and includes all our information needs.

Protecting the 1st Amendment in the digital environment is worthy of our time, our best professional efforts, and our financial resources. Because without that bedrock protection, the Internet will not meet the promise that we all hope for. We must not let fear and exaggeration over the perils of the Internet limit the promise of this new information tool for if we do, we stand to limit the future of today's and tomorrow's children. Thank you.

CHAIRPERSON SIMON: Thank you, Ann. Comments, questions? Joan Challinor?

MS. CHALLINOR: No, go first.

MS. GOULD: You talked about filters being a quick fix at best. While we search for better solutions, what objection do you really have to an interim quick fix at best if the local decision is they would like to have filters as well as nonfiltered computers?

MS. SYMONS: We are not -- the local decision making is what libraries are all about, and if that's what local libraries choose to do in the interim, you know, that is entirely appropriate. I believe that filters offer a false sense of security to parents, a sense of security that children will not be able to see things that are objectionable to them.

MS. GOULD: Thank you.

CHAIRPERSON SIMON: Joan Challinor.

MS. CHALLINOR: That's a good answer. I wanted to ask, if I was a parent, and I brought in my 9-year-old -- let's say 7-year-old boy, and said, you are the librarian, and I said I want him to see everything, I want him to be able to get in everywhere, I want you to help him get in everywhere, no matter what word he wants, would you do it?

MS. SYMONS: I think what I would do is do what librarians do best, and that is guide a child to the best things that are available. I would sit down with the child, I would ask them what his interests are. I would try to find him things that I knew matched his age and his interests.

MS. CHALLINOR: Would you talk to the parent?



MS. SYMONS: I would talk to both of them. I mean, I think that's one of the things that librarians do, they guide people. Our role is to connect people, whether it's children or adults, with the information they need, and there are many inappropriate things out there for children. We are not making the case that everything on the Internet is appropriate for children, but I think that our role is to help children find that which is most appropriate for them at their age and their interest level.

MS. CHALLINOR: I'm just trying to get t the point, how much of a librarian's job it is do you think it is to protect the child against what you might think was.

MS. SYMONS: I think librarians have a tremendous responsibility in the role of education, and I think that's where we need to focus our energies.

CHAIRPERSON SIMON: Rebecca?

MS. BINGHAM: Yes, in our area we have a number of schools which are now sharing facilities with public libraries, that is the public library has been built in. In those instances there is a lot of interest in limiting the interactivity of the younger people on those terminals, at least during the school hours. Do you have a position on limiting the interactivity of the children as opposed to filtering in the wider response?

MS. SYMONS: I work in a school, I've been in a school for 26 years, I work in a very technology-rich school district. In my library lone, and I am in a high school, we have 35 terminals connected to the Internet. We don't filter, and we've done that deliberately. We believe that the educational -- that there is a very definite educational mission to schools. There are a lot of things that will never be appropriate for kids to look at on the Internet at school. Because of our curriculum focus --

MR. ANDERSON: You used an unusual word, peril. Peril is a pretty serious word. You're talking about promise and peril. So to use a word like peril, you must have some very specific perils in mind that we should be concerned about for children. Specifically, what are those perils that you're concerned about?

MS. SYMONS: I think that librarians have never condoned information that is illegal. I think that is a peril. I think that where I picked up the peril was from the title of your hearing, the peril and the promise. I think that you must have also very specific concerns.

MR. ANDERSON: Which illegal information are you talking about?

MS. SYMONS: Child pornography, obscenity, that which the 1st Amendment does not provide protection for.

MR. ANDERSON: So you feel that somebody has a responsibility to protect children from that information?

MS. SYMONS: I think we all do. I think the law enforcement community does. I think the library community does. I think parents do. I think citizens do. Material that is illegal is not protected.

CHAIRPERSON SIMON: José?

MS. GRIFFITHS: I have a question. I was going to ask if you were aware of librarians who have actually reported the fact that people -- any instances when librarians have reported the fact that people in the library using library computers have accessed material that it is illegal?

MS. SYMONS: I think that one of the problems in this whole area is that it is difficult to ascertain what is illegal, and I think that we need better law enforcement in this whole area. I can't stand over somebody at the terminal who is looking, for instance, at Playboy magazine, the centerfold of Playboy, and say that's illegal and you may not look at that.

MS. GRIFFITHS: But there are also areas that are clearly --

MS. SYMONS: I think there are times when librarians can call the cyber tip hotline and report sites that they believe to be illegal.

MS. GRIFFITHS: I'm asking because I do this as incidents occur, for instance at the University of Michigan. We like any large organization have our share of incidents involving pornographic and material that constitutes evidence of felony. We have had students who have actually run pornographic web sites on, and we work very, very closely --

MS. SYMONS: I think local libraries should work with the local law enforcement as well.

MS. GRIFFITHS: All I'm saying, is there any reporting of that within the library community that that's being done is the question.

MS. SYMONS: You know, I look at a lot of literature, I know that there are a lot of appropriate -- inappropriate sites out there for children. We do not -- and I think that one of the things we hear, and I think that it was certainly talked about this morning is that there is a lot of adults looking at adult material on the Internet. I hear much less concern about children looking at inappropriate material.

CHAIRPERSON SIMON: Walter?

MR. ANDERSON: MS. Symons, I have a question for you.

This morning it was fairly well established that a picture of a child in a sex act is against the law in any of the 50 states.

All of the attorneys agreed to that. That's a felony. That's punishable in every state in every county.

MS. SYMONS: I don't disagree with you.

MR. ANDERSON: What is the position of the American Library Association on that very specifically?

MS. SYMONS: That we do not support illegal material on the Internet.

MR. ANDERSON: I'm not sure I understand. You're against illegal material on the Internet?

MS. SYMONS: Absolutely. The 1st Amendment does not protect material that is illegal.

MR. ANDERSON: What should a librarian do? MS. SYMONS: I think that a librarian who finds a website that they suspect is obscene or illegal, child pornography, can report it to either of the 800 numbers that we have been given, that we try to, you know, give this material to local libraries so they will have that information as well.

MR. ANDERSON: So you feel the librarian has that responsibility and authority?

Have you written out those policies on how to handle illegal information? I know you've sent out a lot of policies and a lot of opinions on what the various committees, including intellectual, but have you sent out specifics saying here are some ways to deal with this, if you see this, this is illegal, and here is what you might consider doing.

MS. SYMONS: I think if you see something you suspect is illegal, because I think a librarian cannot -- you know, a judge is the one who determines what is illegal and not. A librarian is not the person standing behind a terminal who determines what's illegal.

MR. ANDERSON: So the answer is no, you have not done that?

MS. SYMONS: We do provide, in our public information, those numbers for people along with safety tips.

CHAIRPERSON SIMON: Ann, we just heard from Ray Ewick that about 30 percent of the libraries in Indiana have filters. Would you have any idea nationwide?

MS. SYMONS: Absolutely. In the material that you have, and I'm sorry I don't have a copyright in front of me here -- Carol, do you have a copy of that? I believe that now on a national level, about 85 percent of libraries are not filtered. I'm sorry, I didn't bring it. About 15 percent of libraries across the nation are filtering one or more terminals and 85 percent are not filtering.

MR. ANDERSON: How many a year ago?

MS. SYMONS: Carol, do you know the answer to that question?

CAROL: This was the first time we asked that question.

MS. SYMONS: So this is the 1998 survey of public libraries. We will ask that question again.

MR. ANDERSON: Do you think you might determine a set of helpful guidelines for librarians who witness illegal material on the website?

MS. SYMONS: I would think that would be very appropriate.

CHAIRPERSON SIMON: Where does this say 215 percent?

MS. SYMONS: On the back, all the way on the back, Internet use policies.

CHAIRPERSON SIMON: Thank you.

CHAIRPERSON SIMON: So Indiana is just a little off the beaten path at 30.

MR. EWICK: May I answer? That is a recent survey. 98 percent of the libraries reporting have acceptable use policy, and they do address in those policies that it's illegal to view certain materials on the Internet and that they have penalties like you will be banned, you will not have access again if caught.

Over 90 percent of the screens are in viewable range of the librarians, and the staff. how well it's enforced is again a local issue, but I think that there is pretty clear indication in Indiana that the librarians are concerned and re taking steps to protect the children.

MR. ANDERSON: Your analogy to the street is there are rules of the road for the Internet and strict ones that should be enforced?

MR. EWICK: (Nodding head.)

MR. ANDERSON: The answer is yes?

MR. EWICK: Yes.

CHAIRPERSON SIMON: Thank you, Ann.

We're going now to Joey Rodger, who is the president of the Urban Libraries Council. I heard Joey speak this week, and in Phoenix where she led off with a poem at the beginning of her -- are you going to have a poetry --

MS. RODGER: You know, I almost did that. Then I thought the only person who will understand is Jeanne, and everyone else will think I'm wasting their time. I'm sorry to disappoint you. We can do one at the break if you would like. Thank you, Jeanne.

I come to you as the president, which is the chief staff officer of the Urban Libraries Council. The Urban Libraries Council is an organization composed of approximately 150 of large public libraries that serve metropolitan communities. In preparation for my time with you this afternoon, I asked them a series of questions. We have a directors E-mail list which is the best single thing about the Internet in my book. So I can reach all of them quickly, and they can get back to me.

So I did ask them some questions in preparation for my testimony. I thank you for the opportunity to share our thinking, and I thank you particularly for your concern about the children of America. It's a concern that we in public libraries share, not just a concern that bad things don't happen to them, but a commitment to them that their interests and explorations, while varied and diverse, are ultimately nourishing, contributing to their development as joyful, wise, caring, respectful youth and adults.

Thank you also for this opportunity to share a portion of the thinking and the strategies going on in American urban public libraries. As librarians work with parents, teachers, and civic leaders in their own communities to become skillful crafters of community strategies that amplify and extend what is helpful and minimize what is destructive about this amazing communication tool, the Internet. The Urban Libraries Council has not created policy recommendations in this area. We have not felt the need to do so nor do we feel it is appropriate because America's public libraries are part of local government. I believe it's fair to say that our members share a belief that those who pay for public library service should create and control the policies that shape it.

Public libraries are local. As you know, our wonderful American political system has three distinct layers of government -- Federal, state, and local. The public library is an institution of local government, created or allowed by varying legislation in each of the 50 states. Differences among these legislative foundations determine how libraries are funded and provide various other kinds of guidance, but they are uniform in creating structures answerable to local government. Public libraries, of course, operate within the structure of various Federal laws, and both cherish and enjoy the mandates and gifts of the Constitution and the Bill of Rights. The policy environments of public libraries, while needing to be congruent with Federal and state law, are local. Library boards or local governments create and implement policies on a wide variety of issues, just as local school boards do. The Urban Libraries Council has a deep respect for the skills, creativity, and knowledge of the trustees, administrators, and elected leaders who provide policy leadership for local public libraries.

Our member libraries and many other public libraries in the country have developed a number of strategies to maximize the benefits of the Internet for children and youth. Most of them are proactive. They include Internet classes for parents and children together, first screen guidance to selected web sites, handouts, pamphlets, book marks, that sort of thing to help parents understand basic safety on the Internet, required parental permission for Internet use, filters in place at work stations specifically designed for children and strategically placed work stations so adult presence is never far away. In libraries also create frameworks which allow intervention when what has been deemed inappropriate use of the Internet occurs. Users may be asked to sign agreements not to display inappropriate materials before they are even allowed to use the Internet. Signs may be posted at work stations notifying users that some material available on Internet still legal and may not be viewed using library computers.

Libraries may state that such use will result in penalties, ranging from asking the user to select new materials to being asked to leave the library.

In an informal survey done of ULC member libraries, there was no single report of Internet-related instances of pedophilia originating at library work stations. I asked that question because in your public record notice you indicated that was a major concern, and no one reported that there was one -- any one instance that was Internet related at the library. The Urban Libraries Council shares deeply the Commission's concern that all children in America have access to the gifts and wonders available on the Internet, while being protected from its dangers and hidden confusions. We believe that the most effective and appropriate actions which can be taken are those rooted not in fear but in confidence, confidence in America's parents to guide their children's learning journeys in cyberspace as they do in their geographic communities. Confidence in America's libraries to support parents by providing accurate

information about how cyberspace works, to support kids in making use of the Internet's many gifts by offering clear paths to good web sites, by offering training classes, and safety tips.

Confidence in local government to be wise, flexible and inclusive in its community discussions about appropriate uses of this brilliant new tool for learning and communication, and confidence in the governments of the several states and the Federal government to develop and enforce laws which enhance the development and well-being of all our children.

The Commission can become a valuable resource to these various individuals and institutions by conducting research on effective strategies, for enhancing the positive use of the internet by children. As I listened this morning to the testimony and the questions from the commissioners, I thought, the questions that you all have, the questions that Frank raised about how does this really work are questions every parent has. It would be immensely helpful if the Commission chose to obtain or use some of its resources to do a research kind of publication that would say, you know, when you decide where you want them to go, here's how to help them get there. That would be a guide for parents and for libraries to say this is how it works, this is what is possible, and because what is possible at the technology level changes to put it up on your website so it can be changed as the technology does.

Support local government, support local libraries, support parents by making easily accessible the facts they need to implement the values of their families and their communities.

I think another wonderful role for you all is to use the national bully pulpit that you all have to help parents understand how important it is to provide guidance to their children as well as to provide the information they need to implement their values. We are deeply grateful for your concern for the children of America. We thank you for the opportunity to share our understandings of where urban public libraries can help. We believe deeply in the partnership we have with parents and as participants in community discernment and decision making. Thank you very much.

CHAIRPERSON SIMON: Thank you, Joey.

Comments or questions from our commissioners? José Griffiths?

MS. GRIFFITHS: I'll address this to Joey. Since your organization represents urban life, is there a segment of the community that we really haven't discussed since Andrew made his presentation this morning, and those are -- and it's a problem very much in the urban areas but not exclusively, and that's runaway children, children who may find refuge in the library, in the public library in those cities.

To what extent do you have a way of helping those children, those teenagers deal with their needs? I mean, certainly they have needs and certainly they have to find access to resources of what kind or another, but they are also very vulnerable to the negative elements that we're basically trying to protect them against.

MS. RODGER: I was thinking as you created that picture of the kids for whom you have particular concern of a visit I paid to one of my libraries maybe -- I think of them very possessively. They're not my libraries. They belong to the taxpayers who fund them, but to one of the members of the Urban Libraries Council, and they had taken me through the young adult area and said we have many homeless kids for whom this is the safe space, and they are here all day every day, and the staff interact with them, help them find the resources they need.

I suspect they are vulnerable. I think they are less vulnerable in the library than they are in the street, and I think one of the things we do is offer a safe haven and always a helpful adult if they decide that this life on the street is not working for them.

MS. GOULD: Anyone can answer this question or you can all answer this question. We've heard from the testimony this morning and so far this afternoon a lot of talk about local choice, parental rights, parental permission. We know that there will be legislation forthcoming in this next session of the Congress. It may be another version of Representative Istook's amendment or of the bill that Senator McCain addressed Istook in terms thereof must be filtering if you're going to have access to Federal dollars.

Is there room at this point for compromise on the part of the American Library Association, the Urban Libraries Council and COSLA that a compromise could be a mixture which is already in existence in many libraries where there where they are filtered and unfiltered journals as a part of the acceptable use policy, but that all libraries must have an acceptable use policy, how would you feel about that?

MS. RODGER: I'm happy to speak because I'm individual about that. I go back to where the money comes from. One of the rules of being a grown-up is if you accept money, you accept conditions. This is a personal opinion, not the opinion of the Urban Libraries Council. As Bobby Roberts, one of your own commissioners, said to me one day, I run my library one day a year on Federal money. If I disagree with what the Federal mandates are that go with that money, I can simply not accept the money, and I think that is a choice. I think my other participation is participating in Washington processes. Everyone wants money without strings. At every level of government, they want it given to them and don't tell us what to do with it. I think that's unrealistic. And yet



the battle will always be fought to have as much prerogative as we can possibly preserve over any money we get. Whether compromise is possible or not is not something ULC would address because we would not take a policy position.

MS. SYMONS: We have taken a policy position in this matter. Our policy is that of one against filtering. I cannot speak for the council of the American Library Association. It would have to be that body who would make the change. I will tell you when this policy was passed, there are 170 members of council, 168 voted for this policy and two against.

CHAIRPERSON SIMON: Ray?

MR. EWICK: The one thing I was trying to get across in my testimony, that the Chief officers of State Library Agencies represent a lot of different groups. We're probably doing a number of different things. We very definitely work for what they call officials. We recognize that it isn't our library, it isn't to do with totally, it's the people's, and we work with them.

The Indiana legislature has required now that we have acceptable use policies. I think that's probably a good idea. I'm not sure. I don't see where that that requires a compromise. I kind of think that if filtering is required, hey, we're going to support it. The evidence has been very mixed on it, at least from what I know, which is limited. It's like everything else, most librarians spend a lot of time on a lot of different issues, and rather than to scrub the final thing out of the glass, you're trying to pull it up with all these good things and enabling all the good services that the homeless child needs, helping them find that ob, helping them to get the counseling they need, helping them in so many ways that sometimes that absorbs us. It certainly keeps us busy most of the time doing the good things that we need to o. I think the chief officers, although I can't speak for all of them, are very practical people. We want to be here today, we want to be here today, we want to be here the next year assisting all these children and adults in the best way we can, and that means if our government, if the people speak through their elected representatives that I was this is the case, then we're going to support it and work with it because there are many, many things we can do to improve the lives of those kids with information services. That's what we intend to do.

CHAIRPERSON SIMON: Thank you.

Ray, does wanting to be here today and tomorrow for those children include not fighting some proposed legislation in the Indiana legislature that would require filters? Would you be able to speak out against that?

MR. EWICK: My job is to provide the best advice I can. Theirs is to make the decision, and we will live with that. We will implement it to the best of our ability.

CHAIRPERSON SIMON: Thank you. anything else? Walter?

MR. ANDERSON: Just for the sake, since we're using statistics, the 15 percent use filters, and I believe that's the number. Of the 168 people who voted against that, I assume all 168, none of them have filters in their libraries?

MS. SYMONS: I think there were people there who had filters in their libraries.

MR. ANDERSON: They use filters, but they oppose filtering some.

MS. SYMONS: I think what we're talking about is a difference between what happens on the local level and what the American Library Association sets as the standard to which we try aspire, for our members. We set what we think of as the best practices.

MS. CHALLINOR: I would like to thank Joey for her suggestions because we're all going to write a report and we're going to write a report as soon as we can. We think this is enormously important and that it shouldn't just o out on the airwaves and be frittered away, and so any discussions you people have we would be very, very happy to hear. Thank you for your suggestions.

CHAIRPERSON SIMON: Thank you all members of the panel.

MS. GRIFFITHS: I have one more question.

CHAIRPERSON SIMON: I'm so sorry.

MS. GRIFFITHS: It relates to the fact that one of the concerns that many people have legitimately is the fact that the cyberspace contains so much unvalidated information, and if I were to use the example of medical information where the medical profession is increasingly concerned about the information that's out there on the net that's reading as official statements or medical information, and that is in fact inaccurate.

How are you as librarians going to educate the user community to the fact that there is information of that nature out there, and I would use that as a parallel to this information, that is -- Ann, I think you talked about helping young children find appropriate materials for their age. I'm concerned, one, about how are you going to deal with the need increasingly to validate sources and information content of various sources on the web and how does that fit into the actual topic we're talking about today?

MS. RODGER: I'm happy to speak to that, again as an individual. I think you have put your finger on an area where our profession should be spending a great deal more time and attention than they are. I think it is appalling that just

one public library I know puts a sign out on the Internet terminal saying you get here may be wrong, harmful, illegal, et cetera.

Then help me to understand why you're providing this conduit for this information you can't stand by. I think as a profession, we have made a high ground out of not evaluating the information because we've been able to depend on the publishing intermediaries.

They are there with various presence or none at all on Internet, so we can't rest in that it has been a true muzzle to me why librarianship has not staked out validation and reliability and done some kind of the L word, labeling, that would help people sort that out, and I think thank you for bringing that up. I think it is a huge issue for us. I think that's where our skills should be.

CHAIRPERSON SIMON: Abe Abramson?

MR. ABRAMSON: I'm assuming that the Urban Libraries Council exists outside of the ALA because it was felt that there were unique problems and solutions that face and are offered by larger libraries.

MS. SYMONS: Yes.

MR. ABRAMSON: And if that's not true, tell me, but I assume that's right. A lot of your members also belong to the ALA individually and otherwise.

MS. RODGER: Even I do I'm a life member.

MR. ABRAMSON: That allows me to suggest that maybe even in using the world or the term even more loosely that there should be different uniform policies for larger libraries than for larger public libraries. Rhetorical, but --

MS. RODGER: I think that the urban public libraries are informed by discussions that append within ALA that may help shine lights on various facets of their decision making. I think to a person they are deeply aware that the place they need to consult and be congruent with in terms of policy format is their local governments and their local communities, which is why I said in my testimony that I believe they would agree that it is not only not necessary for ULC to make policy in this area, it's not appropriate. We deeply believe that trustees and directors and other leaders in local public library discussions need to do those, make the best possible discussions or best possible decisions for their communities. Our job is to inform that discussion, not in any way to dictate what the outcome should be.

So with all respect, we will probably not be making uniform policies. The way it happens at ULC is that the directors will get on the list and say, I need a policy for naming meeting rooms or I need an Internet use policy. Will some

of you send me examples of what you have. Those examples are sent to them and they sit down locally with their boards and their senior staff and their policies, and out of that raft something that may borrow from here and there because it's well said or because it's something they agree with, but that would never be copied directly.

MS. ROGERS: But do you think that large urban libraries should have a different policy without recommending one than smaller libraries?

MS. SYMONS: Not necessarily, no. I want to go back to the issue of quality content because I think the area of quality content is one of the most important issues we have to address as a library community. I think Joey in her testimony talked about those front-end interfaces that we use on our web sites to our communities.

I mean, the librarians have the skill and the knowledge to be able to select the good enough off the Internet for whatever age people, if it's information for kids, and I think a prime example of that is ALA's 700 plus great web sites for kids.

When you talk about the difference between large and small libraries, in the largest urban public library you may have to have librarians who can do that 700 plus sites for their own community. I think we have librarians within ALA, for those of you who work in one-person libraries. I think this is an area where we really as a profession need to stake out. We know how to select good quality material no matter what format it's in and provide that to our patrons.

CHAIRPERSON SIMON: Ray?

MR. EWICK: I think one of the things we are doing in relation to that, OCLC is, 04 cataloging the Internet, dubbed the core. It's a monumental task, but as opposed to being able to put in snake under an Alta Vista or some other search engine and having 2100 hits, I'm not sure I can view that many, and I'm not sure we're doing our patron a service by giving him that many. If we can get some reliability information and some places where they click into and put snake in there, and they get 20 hits, but it's the San Diego Zoo, then we've done a real service for the patrons, and I think that's the direction we're moving.

CHAIRPERSON SIMON: Any comments or questions? I certainly thank the panel for an enlightening presentation. We're going to proceed with panel 5 immediately. If Lawrence Ottinger and Gene Crick are here, would they please come forward.

CHAIRPERSON SIMON: This is panel number 5, the People for the American Way Foundation will go first, Lawrence Ottinger, senior staff attorney.

MR. OTTINGER: Good afternoon. I know you all are reaching the end of the afternoon, so I will try to be lively and informative. I want to thank you. I want to request permission to submit final written comments within the 30 days after this, but give you our oral testimony today.

CHAIRPERSON SIMON: We'll be looking forward to that, thank you.

MR. OTTINGER: A little bit about People for the American Way and People for the American Way Foundation. We were founded in 1980 by a group of civic and religious leaders. We are a national civil liberties and civil rights organization with over 300,000 members around the country, dedicated to promoting and defending fundamental American values and freedoms including freedom of speech, public access to valuable information, diversity, and tolerance.

For many years, People has reproduced and researched papers in an attempt to inventory books in public libraries, including books by J. D. Salinger, John Steinbeck and Maya Angelou which have consistently been rated among the top ten books for censorship.

While the Internet adds both unique opportunities and challenges, many of the local conflicts today over Internet materials in public libraries are really extensions of attempts by a vocal few to impose their values and choices of other materials on the rest of the community.

While legitimate concerns should be addressed and I believe are being addressed, government censorship of otherwise available constitutionally protected and valuable information because a few people disagree with the views and content of those materials is as wrong in the Internet context as it is in the book and paper collection.

Just briefly, we have been involved, we were co-counsel, coplaintiffs in the Supreme court case the American Library Association lawsuit as well as the White House Internet summits that focused on kids online and concerns about user empowerment, and more importantly, perhaps most importantly for this hearing, we are co-counsel for a civic group and individual parents and residents in Loudoun County, Virginia, where a lawsuit is pending challenging one of the most restrictive public library Internet use policies in the nation, a case that I think would be very instructive both in terms of the legal parameters and policy considerations that you are looking into.

Foremost among those is a preliminary ruling from Judge Brakeham on the Eastern District of Virginia that has established that a legal precedence applying that the highest level of 1st Amendment standards to public library decisions to otherwise exclude publicly available information on the web based on the content of that information.

Now, what that means in nonlawyer speak, that strict scrutiny standard means that these content-based decisions restrict information must advance a compelling government interest in a direct and material way, and they must be narrowly tailored to achieve that interest so as not to infringe on the rights of the public to valuable information. As a first brief point, on an overall perspective, I believe the promise of the Internet, particularly for young people and future generations is tremendous. Indeed, being computer and Internet literate has become almost an essential skill for children growing up today.

Because many people do not have and cannot afford computers or Internet access at their home, public access to the Internet through public institutions such as schools and libraries has rightly become a top national priority. In this regard, I hope the Commission will note the importance of the role of public libraries in providing public access to this essential resource, and ensure that its recommendations encourage such public access and do not in any way impede adults and minors from the enormous benefits of these resources.

Along these lines, while we look at addressing legitimate concerns, it would be a tremendous mistake and disservice to children themselves to allow discussion of concerns to overshadow the real promise and opportunity of this medium. The last thing we want to do is scare off and deter communities or parents who may be uncomfortable with the new technology from educating their children about how to use this resource and how to develop the critical thinking and judgment skills necessary to deal with such concerns and to cope with the real world.

In this regard, educating parents as well as children about the Internet and empowering them to make decisions in how best to use this resource comprise an important role and recommendation for public libraries and library managers with respect to Internet use.

With this said, the Internet does bring with it legitimate concerns that need to be addressed, including ones that have been mentioned that among the vast materials available on the worldwide web, for example, are some false, misleading, hateful, and disturbing content.

I would like to note here, though, the difference between the broadcast medium and the internet, which the Supreme Court noted very forcefully in providing the highest level of First Amendment protection for what they describe as the electronic town hall. Information doesn't just stream into your home over the Internet obviously, the people consciously choose to find the information, and as both sides agree to in the Supreme Court case, information rarely shows up by accident. It's intentional. People have to intentionally access information, and in that regard education, including education, guidance from librarians will

be very important in pointing people how to find the most useful information, how to avoid unwanted information.

So the issue in terms of these concerns is how do we address these concerns in a way that preserves the historic role of public libraries as voluntary centers of public learning that promote and safeguard the role of libraries in providing public access to valuable and diverse information and ideas, respect privacy and confidentiality interests of library patrons, and that leave the ultimate decision to adult patrons, parents and families as to what materials to read in the public library consistent with individual and family values and circumstances. We believe that as demonstrated by most communities today, public libraries can address legitimate concerns about Internet content through policies that include Internet education, acceptable use policies, and guidance toward the use of the list of recommended children sites that the American Library Association has discussed earlier.

I would like to talk a little bit about Loudoun County since I think that would be instructive. Loudoun County's Internet policy on sexual harassment provides an illustration of how not to handle Internet use situations in the public libraries. First of all, the library board majority was a 5-4 decision.

There was never presented any information showing that there was even a significant problem related to unfiltered Internet use in the public libraries before a document policy.

To the contrary, the library director who reports to the board, and administered the library, investigated the experience of 16 Virginia public libraries with the Internet and found that libraries which offered unfiltered internet use had not experienced problems with pornography or harassment.

Only one library reported a single complaint by a patron who viewed allegedly pornographic material on a terminal by another user, being used by another user, and since that time the library has resolved that situation by installing privacy screens so that there will not be inadvertent viewing of material by passersby.

Second, rather than positioning the Internet terminals away from other patrons and staff or using privacy screens or screensavers which will return a screen back to a default page after a certain amount of time, in order to avoid accidental exposure to unwanted material by other library patrons or staff, what the library board did in its policy directly undermined any such interest, by actually requiring that terminals be located in open and full view of library staff and requiring the library staff to actually monitor and stop any patrons from viewing prohibited material under threat of eviction and prosecution for criminal trespass. In addition, as Mr. Burt, who testified earlier today, and also testified for the library board in our case admitted, a policy that requires library

staff to act essentially as cops and look over patrons' shoulders infringes on patron privacy and confidentiality and will chill patrons from viewing sensitive health or other personal information out of fear of stigma and embarrassment. Even those materials are valuable and legitimate and nonpornographic.

Finally, since I know that some of your previous speakers may have promoted Internet locking software as a potential solution, I wanted to clarify this issue and point out some of the constitutional and policy issues as illustrated by our case in Loudoun County.

First, as a clarification. Contrary to the assertions of the defendant in our Loudoun County case and some pro-censorship groups, the issue in our case and for those public libraries who want to use filtering is not between filters and no filters, but between mandatory filter and optional filter.

The Loudoun County policy requires that locking software be used to block out certain materials for all patrons at all times, adults as well as minors. Our client, Mainstream Loudoun, actually had proposed an optional filtering policy to the library board which it rejected.

That proposal would have allowed adults to decide for themselves and parents and guardians to make decisions for their children concerning whether or not they would use blocking software.

For many reasons which are set out in briefs that we filed in the case which you can find on our website, the mandatory, Loudoun County's mandatory blocking software is unconstitutional, cannot meet strict First Amendment standards.

Just so you know, I will submit the judge's first opinion in order so you have that, but we are expecting any day an opinion from the court on our motion for summary judgment against the library board policy which we expect to strike down this policy as unconstitutional.

As demonstrated in our case, even what defendant described as, quote, the best of the worst software has blocked substantial amounts of valuable and clearly nonpornographic information, including web sites for the Quaker Society of Friends, the American Association of University women, the Heritage Foundation, and a site for Beanie Babies, as well as many sex education as well as gay and lesbian sites.

CHAIRPERSON SIMON: Larry, if I could interrupt, could you tighten it up a little bit.

MR. OTTINGER: Okay, I'll finish very quickly here. The library's own stats of the software found that 67 percent of blocked sites should not even have been blocked in the library board's own policy, and lots of other material also got



through this best software. Again, as conceded by Mr. Burt and the software company, no software can adopt an illegal standard and make decisions as to what are legal versus nonlegal materials.

And as the court preliminarily found also, just to let you know, requiring patrons to request some of these sites to be unblocked at a later date, even if they are acknowledged to be wrongly blocked, does not solve the constitutional problems for the people who need the information right away or for making people request information that they otherwise have a right to.

Let me just conclude with bullet points on what we think should be principles that would make for a great report. We urge you to include in your recommendations for managers, number one, the promise of the Internet for young children today should be stressed and should not be clouded by discussion of how to best address concerns. Policies should be based on solid evidence of real, proven problems, not speculative fears or threats.

Policies should be narrowly tailored to address any concerns and should be done in a least restrictive method for occasionally protected information. Adults, parents, and children, not local government officials or library staff should decide what library patrons can read and learn in the public library according to individual and family tastes and values.

Local government officials and library managers should not usurp the role of parents, guardians and families in deciding what children can read in the public library. Librarians should continue to serve their very important role as a resource to educate and provide guidance to adults, parents, and children on the internet. They should not be required to look over patrons' shoulders and tell them what they can and cannot read in the public library. Internet policies should allow access of their choosing. Policies regarding children should not reduce adults to view only what is fit for children, and to distinguish between younger children and older more mature teenagers.

Behavioral problems involving the Internet such as disturbing or harassing other patrons or staff should be dealt with by behavioral policies, as is done when such conduct occurs unrelated to Internet use.

Finally, Internet education acceptable use policies, guidance to recommended sites, computer positioning, privacy screens, time limits, and other similar policies should be recommended to address concerns about Internet content and the display of Internet images in the public library. Thank you, and I apologize for going over.

CHAIRPERSON SIMON: Well, I thank you, Larry, for your definitive statement for Loudoun County and others.

Comments, questions from our panelists?

MR. ANDERSON: Do we have time?

CHAIRPERSON SIMON: We have a bit of time, yes.

MR. ANDERSON: You used a variety of language and you were saying to present the legal cases, and we're not judges, but it was interesting nevertheless. You use interesting language -- pornography, pro censorship, describing the people that have a different point of view than you. It reminds me of pro life and pro choice, people pick whatever they think is the most applicable.

Getting through that, you talked about the Mainstream Loudoun had alternative blocking system and filtering.

MR. OTTINGER: They proposed.

MR. ABRAMSON: Is that the name of the organization?

MR. OTTINGER: Yes.

MR. ANDERSON: You had me confused there. I want to ask a couple questions. If that school board would have proposed that alternative blocking system instead of what they did, we don't have to go through the detail of it, would People for the American Way have opposed that deal? Would it have opposed that board's action?

MR. OTTINGER: You know, I don't think we would have been involved in that case. We have not taken a position on that optional filtering issue. We think it should be optional if there is going to be filtering.

However, what we did by coming into this case, and I think what's helpful for the Commission and the reason that I made the legal points and arguments is this is a framework that local communities as well as the Federal government are all subject to the Constitution, every one of us here, and those parameters, it will be educational for people to look at what Loudoun County did in terms of mandatory blocking software and requiring librarians to review what people are looking at the library, all these types of elements of this policy will be, I think, very important for the Commission to look at when they're coming up with their recommendation.

MR. ANDERSON: The answer is either I don't know or we may not have entered a lawsuit to block the alternative blocking.

MR. OTTINGER: I doubt very strongly we would have entered a lawsuit on the optional filtering. The organization has not taken a position on that.

MR. ANDERSON: That's the only question I was asking. If we can get to the next one. One of the points you made, and you said it very importancefully, librarians should not usurp the roles of parents regarding their children. I think -- was that what you had said?

MR. OTTINGER: That was part of what I said.

MR. ANDERSON: Would you just explain what that means. If I'm a parent and if I don't allow my child at home to access certain sites on the web, why -- or should a librarian allow my child -- should my child be free in the library to access those sites? Do you think librarians should get involved in that?

MR. OTTINGER: I think the point they're making is that's a decision for parents to make. I mean, as I said, people have proposed alternatives where parents could opt to not have their children have access to the Internet or to -- which would be a terrible -- in my mind a terrible decision, but the point I'm making is whether it's a book censorship like the fact that a few people don't like J. D. Salinger's works, and are --

MR. ANDERSON: We're talking about the Internet. Stay on Internet.

MR. OTTINGER: Okay, they don't like J. D. Salinger's book on Internet, you know, and they say we want to block that material. That's fine if the parent has with their child decides that they should not view that material. However, for the government, and that is a constitutional limitation, for the government to come in and say you can't view that material is something that they can't take that role. It's really for the parents to decide how to raise their children. If they have an agreement with their kids, you're not going to use the Internet, that's for the parents to decide, not for --

MR. ANDERSON: So what you're really saying is not that librarians should not usurp, you're really saying librarians should not step into their role. I'm just trying to get it clear what you're saying here. Librarians should not et into that role. If a child wants to call up one of the sites that are in question that we talked about, the child should be free to do that is what you're suggesting?

MR. OTTINGER: I'm saying they should not play the role of the parent in determining what access, what the child will read, what kind of Internet access they will have.

MR. ANDERSON: So you're basically saying that the librarian should not make that their concern?

MR. OTTINGER: Yes, usurp that role. I believe that's the same.

MR. ANDERSON: We might have misunderstood what you meant when you said about librarians do not usurp.

MS. CHALLINOR: If pedophilia is illegal and you would not expect the librarian to stop that access?

MR. OTTINGER: Oh, of course. Illegal material -- pedophilia -- I said to the extent there is any behavioral conduct whatsoever, and I said, you know that there's been very little evidence of this related to Internet use, but to the extent - - If you actually saw someone harassing, n adult harassing a child or any conduct like that in a library, I expect librarians to take the same actions they would as if a patron came in with materials in their briefcase and started harassing or disturbing other people in the library.

Of course I expect, I would expect librarians to take -- and to matters that are serious conduct that are illegal like that, to refer that to the police and to get help in terms of enforcement of criminal laws.

A lot of the policies we're looking at don't deal with material that's illegal, whether it be obscenity, child pornography or actual solicitation of a minor. The policies we're seeing coming out in the filtering software go far beyond that to either material that they call indecent or filtering out, as I said, filters that filter out all kinds of clearly valuable information.

MS. CHALLINOR: I take it you would not e in favor of blocking out interactive TV, I mean, interactive chat rooms?

MR. OTTINGER: That, you know, again, that's another thing we have not taken a policy on that that's a local community decision, I think as people have said here. I think, you know, I would like to see that there is a problem before - - the first standard was, is there a problem that needs to be solved in our library, in our community. In Virginia there wasn't, even at the beginning.

MS. CHALLINOR: They weren't talking about chat rooms.

MR. OTTINGER: No.

MS. CHALLINOR: I'm talking about chat rooms what is your view on chat rooms?

MR. OTTINGER: We don't have a position on chat rooms.

MS. CHALLINOR: Okay, stop. That's it.

CHAIRPERSON SIMON: Abe Abramson?

MR. ABRAMSON: At least three times you used the phrase valuable information. I'm assuming that twice of the valuable was gratuitous because Americans For don't really care if the information is valuable. I'm assuming that.

MR. OTTINGER: I'm sorry, are you talking about People for the American Way?

MR. ABRAMSON: Yes. You said blocking their access to valuable information, but your foundation position is all information is valuable, it doesn't have to be valuable to be protected.

MR. OTTINGER: If it's constitutionally protected information, the public has a right.

It's not -- you know, what one person will find interesting and helpful, that's the point of libraries. That's a very good question because I think public libraries are voluntary centers of free will. We don't ask librarians to tell people what they can read nor do we ask them to tell children what they can read. They provide a resource, and the Internet is a tremendous resource, and librarians are there to guide, help guide people to the most helpful and quality information, and the information that they're looking for. It's not for the librarian to decide that this is the most valuable information. MR. ABRAMSON: No, but you said valuable.

MR. OTTINGER: I did. I do mean valuable.

MR. ABRAMSON: You meant intrinsically valuable?

MR. OTTINGER: The American Institute of College Women to the Heritage Foundation would be valuable.

MR. ABRAMSON: Intrinsically valuable?

MR. OTTINGER: Yes.

MR. ABRAMSON: That was my point.

MR. ANDERSON: You would agree that we don't have to wait for a child to be killed on the street corner before there is a street light?

MR. OTTINGER: I'm sorry, I don't know how that relates to the Internet.

MS. CHALLINOR: Yeah, I understand.

MR. ANDERSON: There are actions that people in responsible positions can take, whether in government or in business that anticipate consequences, so we don't want to wait. I assume you're not suggesting that someone wait until a child is physically hurt before this gets discussed or considered, you don't mean that right?

MR. OTTINGER: Of course not.

MR. ANDERSON: I understand. I understand.

MR. OTTINGER: Walter, I just want to say one thing. That's why I talked about preventive policies like computer positioning, privacy screens. A lot of what I saw in earlier testimony, people were worried about people accidentally viewing material on a terminal that could be harassing, could be disturbing.

Let's look at alternatives that don't restrict people's access to Internet content and also protect privacy, such as privacy screens, screen savers, computer positioning. Let's look at a way that will solve a problem without infringing on other people's rights.

CHAIRPERSON SIMON: Is your organization engaged in any other lawsuits regarding libraries and the Internet outside of the Loudoun County one?

MR. OTTINGER: We are actually involved as an amicus in a case out in Livermore, California, which you may have heard about where parent sued a library for not blocking out information on the Internet, saying that they had a duty to basically block out information on the internet, which was also in our case. I think the opinion that we expect shortly should also be helpful to this Commission in looking at that issue. I think it may be addressed.

CHAIRPERSON SIMON: We'll be looking forward to getting that.

MR. OTTINGER: Thank you very much.

CHAIRPERSON SIMON: We'll now proceed with electronic frontiers. Gene, are you ready?

MR. CRICK: I'm quite sure my state's experience with the Alamo has taught me to beware.

Good afternoon, my name is Gene Crick, I am president of Electronic Frontiers-Texas, an organization committed to First Amendment principles in the new media of telecommunications and the Internet.

Additionally I am executive director of the TeleCommunity Resource Center, a nonprofit program of the metropolitan Austin interactive network which has

enabled public Internet access in 25 cities. I am familiar with today's topic because we installed our first access terminals in Austin, Texas in 1995, and have spent much of the time since dealing with content controversy. This experience convinces me that despite its allure as a political quick fix, library Internet filtering is simplistic, ill-advised, and ultimately unsuccessful in resolving this complex conflict of social values. Unfiltered access must be offered to adult library Internet users. The case against required adult filtering in United States libraries seems clear. Internet filtering violates users' First Amendment rights.

Our Constitution demands government permit citizen participation in most kinds of speech, except in cases where the government can demonstrate a compelling reason to restrict access.

Library users have a reasonable expectation they will be able to find constitutionally protected information in libraries and will not be deliberately denied access to that information when it is readily available. In my opinion, no computer program currently available can adequately distinguish all protected speech from unprotected speech. Thus, no filterware can remove unprotected speech and objectionable content and still allow access to all constitutional free speech. Nor, given the diversity of content semantics versus the binary logic of machines, do I believe a fully acceptable filter is soon likely.

Therefore, restricting adult library Internet users to filtered terminals represents government intrusion into adults' rights to access free speech. This is especially important in libraries with only a single Internet access terminal which offer filtered children's access. These libraries must enable adults to use the same public terminal with filter software removed or disabled.

Children's access issues are less clear. The considerations for children's Internet access are not so obvious. Several of my colleagues argue convincingly that library filtering is unacceptable even for children. They maintain filtering curtails parents' rights to teach their children how to responsibly find value and avoid hazard in a free, whole Internet. While respecting these views, I recognize libraries' practical challenges, including an obligation to comply with various laws written to protect minors from harmful influences; responsibility to parents' concerns for children's exposure to inappropriate content; and the political influences upon libraries which receive financial support from government agencies.

Some libraries choose to meet these obligations by installing online filter programs. But other librarians reject filterware and recommend guided use, a noncensoring alternative which can have several aspects. User guides for parents, including the ALA's Librarian's Guide to Cyberspace for Parents and Kids provide valuable guidance to parents, teachers and librarians about the hazards of the Internet and how to protect children in the online environment.

User guides for children, including 700 plus Great Sites for Kids and another ALA publication and similar guides list appealing sites kids can visit while surfing the web. Many parents believe their children would prefer sites like these as more interesting and fun than online smut.

These parents suggest their children might be embarrassed by stumbling onto ungated pornography but have been taught to recognize and avoid unsuitable and offensive content in an environment of free speech without suffering lasting harm.

Libraries may also offer web pages designed to guide kids to sites appropriate for them. An example, the San Diego public library website.

Staff involvement and personal assistance, especially near youth access terminals, can help assure minors find valid rather than objectionable content. And I agree with the Supreme Court that this risk is overrated.

Summary considerations for local public library Internet access. Filter software denies adults access to valid information. Libraries which offer adults only filtered access are not adequate solutions. Parents have the right and responsibilities to decide appropriate Internet content for their families. Some may justifiably choose to install filter software on home computers, but their choices are not necessarily right for every family using library terminals. Parents must decide whether to allow their children to use library access terminal access. Library access must respect adult First Amendment rights as well community concerns for appropriate children's content. While librarians may select which books to buy, they cannot deliberately block access to protected speech otherwise available from an uncensored Internet.

Finally, a most important point. These are local decisions, properly made by local citizens and librarians, reflecting community values and best interest. No government should attempt to impose a single political solution on local communities. Thank you. Gene Crick.

CHAIRPERSON SIMON: Thank you.

Comments or questions from our commissioners?

MS. CHALLINOR: I have one. It says while librarians may select which books to buy, they cannot deliberately block access to protected speech otherwise available from an uncensored Internet. What is the difference between a librarian taking a brochure and saying I will buy this one, no, not this one, yeah, this one, this one, no, and saying this site, and saying that interactive is not -- should not be available to children or it should be available to adults? What's the difference?



MR. CRICK: Selection, as manifested by buying the books, is a volition active tactic and you bring the information into the library. That's an inherent right of the librarian and a part that to help you meet community needs. On Internet the information is already there. You're saying these shelves are full of things, these shelves are full of information, books, if you will, and these books are legal, and appropriate protected speech, but you can't read them. I'm saying that --

MS. CHALLINOR: No, children can't read them?

MR. CRICK: No, I am in that context talking about adults. If I am unclear, please accept my apologies. I'm just saying that inherently a library --

MS. CHALLINOR: Oh, okay.

MR. CRICK: Bear in mind that you have ere a symbol, an impressive array of people with policy and wisdom and expertise on this. I tend to be a fellow working in the trenches out there and so I'm not always going to have the best answers for those, but I do know that I am concerned with adult unfiltered access.

MS. CHALLINOR: No, no, would you accept that children be denied access to interactive checks?

MR. CRICK: I would certainly support a librarian's decision to accept that.

MS. CHALLINOR: That's all I want to know.

CHAIRPERSON SIMON: I did understand that you said the Supreme Court has overrated the risk of kids watching some inappropriate material?

MR. CRICK: There are those more familiar in this decision than I in this very room. The way I read the CDA decision that they id not find the magnitude of risk that some eared might exist.

CHAIRPERSON SIMON: I would love to know how the Supreme Court decided that. Thank you very much. No more -- oh, I'm sorry, Abe.

MR. ABRAMSON: You make me ask this question because you almost brought it up, each of you. I run a library. I'm not a librarian, but let's say I run a library that is large enough to have a children's collection, and it has the rest of the collection, and there are no real -- no barriers to, crossing. Would it seem to impinge on anyone's constitutional right if the board of trustees, which is what I'm familiar with, if the board of trustees said, you know, we're not going to provide Internet access to adults at all because you've got Kinko's and

the offices or something like this, so we've got so much money, so we're going to put Internet access filtered for children in the children's collection room, and we're only going to have one terminal, and it's going to be filtered.

MR. CRICK: That's a toughy, but if a library says -- and this must be spoken as an individual. I don't want to purport to represent y group, but if a library chooses to offer children's only access, are they going to deny it to adults? I'm not quite --

MR. ABRAMSON: They're saying there are resources on Internet that will enhance their ability to deliver services to the children. They don't feel that either for check reasons or because of the service area or other reasons that it's something they have to provide to adults at the same time.

MR. CRICK: I would find that a remarkable choice and a regrettable choice. I guess the only thing I can say there is I need to deal with it when it becomes a choice. That may be avoidance behavior because I don't think it likely that they would deny adult access. This to me actually seems a strategy that might actually just be saying we want to put filtered access in.

MR. ABRAMSON: No, I'm from a state that have libraries that don't even have a telephone line. They are about to decide to have Internet access. They may decide that it's appropriate for children, and the amount of time on the lease line, that would be something. would that be something that would go beyond defending you and in your case bring your hackles to the type of shaping up?

MR. CRICK: I would be slow to oppose a library's local choice as long as they consider it best. Do you?

MR. OTTINGER: As long as it meets the constitutional constraints, for sure.

MR. ABRAMSON: But does that seem to meet constitutional constraints?

MR. OTTINGER: It's not a case that we've looked into, having a single -- you know, there's a lot of factors, you know, is this talking about all children, all materials, 18 year old as well as young children. It's really something you have to look at specifically.

MR. ABRAMSON: Walter, did you have a comment?

MR. ANDERSON: Mr. Crick, I'm just a fellow in the trenches like you. Not being an attorney, the language confuses me, so I have to ask, you know, questions because I just don't understand it. You said while the librarians may select which books to buy, which Joan referred to, they cannot deliberately block access to protected speech otherwise available. That's interesting, you use the word protected speech. Give me an example of unprotected speech.

MR. CRICK: Unprotected speech is that 'm going to echo other speakers that say there s stuff on the Internet that's inappropriate for children. There is stuff on the Internet that's inappropriate for my dog. I'm not holding forth that that should be offered at a library. That's unprotected speech that which is illegal.

MR. ANDERSON: How do we do that? That's a fundamental question. The fellow next to me might disagree in what he considers illegal valuable and inoffensive or invaluable and offensive.

Let me give you an example I'm sure you'll both agree on. If you see a picture on the Internet of a child in a sex act, you're seeing a felony that will be prosecuted in all the 50 states. In fact, if you receive that, you can and will be prosecuted by the U.S. Postal Service. That happens to be against the law to receive it. You also can't get it through the mail, those videotapes on child pornography. That's evidence of a crime, that's a felony.

Now, like Burns, should you feel a sense of responsibility on this? If so, what can they do? You got very agitated about that a second ago, like me, just a guy in the trenches, but what do we do about that? Wring our hands or should they make decisions?

MR. CRICK: I guess they just do what you're trying to help them do with this council, and that is, find the best way. I don't think that the librarian should be cast into the role of an arbiter of what is illegal and what is objectionable. On the other hand, I think the librarian has an absolute right and an obligation to acceptable use within that library.

Some things are so flagrantly obvious that you need to go for the police right now. Other things are inappropriate. Snoring is not illegal, but I don't want to be sitting next to someone snoring. They should be asked to leave. It comes down to the notion of accepting reasonable policies.

MR. ANDERSON: You might say, if I could do this for you, librarians should use the same discernment that they would do in their normal duties.

MR. CRICK: I don't have a problem with that. I think they get a little bit of an implicit bad rap in this because it suggests the notion that librarians are not already actively involved in trying to bring the best, most wholesome, protected content for the people coming through their door. It's just that I'm in favor of community-based solutions. In Austin, we have the less than enviable position of being -- all right, we're leaders in this debate, but that's sort of like being a canary in a mine shaft.

It's not necessarily an enjoyable road.

What we worked with for the last two years is trying to find some work together and trying to find some solution that's acceptable to all members of the community. It's been a heck of a fight. I don't mean a fight among the people. I mean a fight against the conflicts of the issues, and we've got compromise solutions in place, and we'll see.

MR. ANDERSON: Thank you very much.

CHAIRPERSON SIMON: Further comments or questions? I believe we've concluded the panels. I thank you gentlemen. We're going to have a break now for about ten minutes. (Recess.)

CHAIRPERSON SIMON: We're back in session for the last interesting panel, which are the people who have asked to speak. We have three people, three persons have asked to offer testimony. The first person is Heidi Borton, a former reference librarian in King County, Washington. The second person is Karen Jo Gounaud, president of Family Friendly Libraries. The third person would be Donna Rice Hughes from Enough is Enough.

Heidi, would you lead off this afternoon.

MS. BORTON: I'm just very pleased to be able to speak to you. It's been on short notice. I do want to first preface my remarks by saying that I think I know of an incident of pedophilia that happened in a public library. It was posted on David Burt's list serve, and I would be happy to get you the details concerning that.

My name is Heidi Borton, and I am here today as a practicing librarian with a compelling interest in this subject. After nearly ten years working in the King County library system which, incidentally, is one of the largest in the nation, and has been a leader in implementing technology in our libraries, in April of 1998 I resigned. The reason for my resignation: The library's policy of allowing unlimited access to the Internet, including pornography, to children and teenagers. Not only did I find it unconscionable to provide such access in a respected, taxpayer supported institution, but I later applied for and was authorized to receive unemployment compensation from the Washington state employment security department. This was due to the fact that my position in the library system was deemed to have required moral compromise as a condition of employment. This is the situation faced by thousands of librarians and library workers across the United States. Library systems are implicitly requiring their employees to put aside their own sincerely held moral beliefs in the interest of providing children with anything and everything that's on Internet.

My own story begins nearly two years go. In December of 1996 I asked our library board to consider the ramifications, both legal and ethical, of providing

unrestricted Internet access to all ages. Subsequently, the library system decided to install the Bess filter on terminals in the children's areas of our libraries.

MR. ABRAMSON: That's B-e-s-s not b-e-s-t?

MS. BORTON: That's B-e-s-s. It's not one of the more widely known ones. In fact, this was a move that was widely hailed by the press as being a good compromise. It provided the library system with some very good PR. But sadly the media never addressed the question of children accessing porn at other terminals or the question of whether the public's interests were served by providing a place where certain individuals which we observed could repeatedly display sexually explicit material sometimes obviously to offend others, sometimes simply for their own titillation, sometimes to involve others in conversation concerning the material, including minors.

The precipitating incident leading to my own resignation came in November of 1997. It was a usual Saturday. We were busy and short staffed. A phone call came in and was referred to me by one of our library assistants. The caller identified himself as a 14-year-old. He wanted to know if the library allowed him to access pornography, and this was his term, on our library computers. At that point I knew I had a choice. I could either hide the truth about library policy or tell him the truth. I chose to tell him what library policy was, that he could access whatever he wanted to, provided it was not illegal child pornography. He replied that he just wanted to see pictures of naked women. He also proceeded to ask a logical if somewhat shocking question, which was, if the library allowed him to view these porn Internet sites, why didn't the library also subscribe to certain hard core magazines that he specified? At that point I referred him on to the library manager who would be there on Monday, and on Monday consulted with the library manager and with the head of the library system as to whether or not I had correctly stated library policy. It was confirmed to me that I had indeed. At that point I made the decision that could I never again lead even implicitly or whatever way a minor into accessing pornography, and I couldn't violate my conscience again. I hope that my story and my experience will encourage all librarians to rethink this question and to maybe separate themselves a bit from the ALA position, which is quite hard-line. There are other positions and other beliefs held by librarians, but there are people that are intimidated and will not speak up because they are actually afraid that they will lose their job, strange as that may seem.

I knew that I could not go on in my position holding the beliefs that I have. I would have to be compromised at some point. You know, libraries might be able to legally retain their policies by some legal wrangling. That's going to go on in high places. But I tell you, if we do, and if we remain hard and fast on providing unlimited access to all sites for all ages, we're going to lose something very valuable. We're going to lose the public trust, first of all.

We're going to suffer, the morale of our employees is going to suffer, and so I must urge you to really consider the decisions that you're going to make in terms of employees and what they have to put up with.

Thank you.

CHAIRPERSON SIMON: Thank you, Heidi. would anyone like to comment or question Heidi on what she has told us?

MS. CHALLINOR: I would like to say thank you for coming before us and taking the time to tell your story.

MR. ABRAMSON: You indicate that you are today a practicing librarian. You're working as a librarian in a different capacity?

MS. BORTON: I have a temporary part time job as a college librarian.

MR. ABRAMSON: With Internet access?

MS. CHALLINOR: Actually, yes.

CHAIRPERSON SIMON: Have you found other librarians rallying to your cause?

MS. BORTON: No. I find that -- well, I guess I should qualify that. I find many sympathetic librarians, but I don't necessarily see many that are willing to speak up, although they may be thoroughly disgusted. They are not willing to speak up because there is a lot of intimidation. There is intimidation. There s - - it's just not the position to take. It's not the position of our professional, of our one large professional organization, it's not the position of our library administrators.

CHAIRPERSON SIMON: Have you talked to the ALA people about this?

MS. BORTON: Well, indirectly because I've been on some forums.

MR. ABRAMSON: Is there a listserve, chat room or a news group that deals with this specific issue that you're aware of?

MS. BORTON: No I will say one thing, that what I have noticed is that there are two categories of workers in libraries. There are ALA librarians, in other words, there are the librarians that have power, and then there are what I call the blue collar workers in libraries. There are the library assistants and the pages. Their views are very different usually, they are often much more conservative, and again, though they are the underlings, if you might say, in this system.

CHAIRPERSON SIMON: I think standing up for principle is always difficult, but I admire your courage to do it as you see it.

MR. ABRAMSON: So that I'm clear, have you gotten an MLS, have you ever been a member of ALA?

MS. BORTON: I have not been a member of ALA. Yes, I do have an MLS, and I have worked as a librarian, a children's librarian, a reference librarian, a bookmobile librarian for more than ten years and now a college librarian.

MR. ANDERSON: Did you write this yourself?

MS. BORTON: Yes.

MR. ANDERSON: Don't be surprised by my question. It's really meant as a compliment because it's written well, and I want to tell you my response as I was reading this, and I don't know if anybody else had this I was hoping I was going to find something in here that I could say she's a liar, she's not telling the truth. This did not happen this way because, as I went from sentence to sentence I was hoping that what I wasn't reading wasn't true, and when I got to the end of it, I was convinced that it was true, and as our chairperson said, I admire your courage. This is really a very nightmarish situation that you have described, and I'm sure you've touched very one of us here and everyone in the room, and please understand the question I'm going to ask you with that preceding. Why exactly are you here?

MS. BORTON: I'm here because I think that a person like me needs to be heard. I don't hold a high position, I am not -- you know, I'm just not from any organization. Even though I may agree with people like Enough is Enough or other organizations that are represented, I'm not part of those organizations.

MR. ABRAMSON: Who bought your plane ticket?

MS. BORTON: I'll tell you, this is an amazing story. I did not come out here to testify to you today. I came out to visit my son, who has just gotten a government job in the last three months, and I heard about this two days ago, and came down from Maryland, so -- and incidentally, this incident is minor compared with others that I did not personally experience but other people did and told me about, that they weren't willing to testify to them. As for my writing skills, I do write a lot of book reviews, so --

CHAIRPERSON SIMON: There you go, Walter. Thank you so much, Heidi.

MS. BINGHAM: I want to compliment you for coming because your tale is like some that I have heard, and just as you point out, so many of those who

experience these things are not the higher level who do not belong to or participate in ALA, and I have participated in ALA for the last 33 years, but yours is a story that needed to be heard. It is an experience that is not unique, and I'm happy to have it a part of the record today.

MR. ABRAMSON: Would you be surprised if American libraries printed your statement?

MS. BORTON: I would be very, very, very surprised. That's a best challenge.

MS. GOULD: I think your being here is true serendipity. I would like to commend you for having courage of your convictions. It is not easy to swim upstream.

MS. BORTON: Thank you.

CHAIRPERSON SIMON: I hope I have given everybody an opportunity to speak.

Thank you, again, Heidi. Karen Jo Gounaud, president of Family Friendly Libraries.

MS. GOUNAUD: Did you all get a copy of my material.

CHAIRPERSON SIMON: Yes, we did. Thank you. Anytime you're ready.

MS. GOUNAUD: Thank you for including me in this. We are a small organization, not really a typical organization. We're more of a network. Family Friendly Libraries is a national network of concerned citizens, parents, educators, trustees, and library professionals concerned about public library policies affecting children and their families. We provide education and information to all inquirers, even those who consider themselves our enemies.

I want you to know we have a page on the People for the American Way web site. It's not entirely accurate, but that's okay, I accept the honor of them thinking we were important enough.

Our top priority goal is protecting children from age inappropriate materials. Our top priority problem has become pornography on Internet.

Let me be clear about what I mean when use the term pornography. When I say pornography, I'm referring to sexual material created for the exclusive purpose of sexual titillation. This includes both legal and illegal material. I would not necessarily include a nudist family picture of what we did on our vacation. If it's really something family wise, then that's their business. I'm talking about material for the exclusive purpose of sexual titillation, both legal



and illegal. A copy of my speech there and I won't read every single one of them, but I was trying to highlight the most frequent complaints that we get on our phone, through our E-mail, and when I'm at a forum.

Problems with teenagers, when they use the Internet unsupervised in libraries, problems with adults using unfiltered Internet which affects minors who slayer their library space, and problems with children using unfiltered Internet or even sometimes filtered Internet, even when their parents are present.

Some of my greatest concerns would be the circumvention of parental authority, when allowed to access materials against parental will. For instance, we know of a young boy, I believe he was 11, and he -- no, he was 14, and he had downloaded pornography, given it to an 11-year-old, was really getting hooked on that. His mother begged the library not to let him have access to that.

She was a single mom, had to work a lot. He had to do his homework a lot without her around or else just pull him out of the library, and they would not help her with that problem, even though obviously it was developing into something more serious.

We had a complaint, a mom didn't even have Internet in their home. Her son accessed hard core pornography in the public school, even with the teacher around. He ended up getting hooked on pornography. He broke into the school twice to get to the computers and a couple of times he left semen samples in his favorite teacher's coffee cup. Now the teacher or now the parent is trying to do something about what happened to her child and figure out where the school responsibility fit into that.

The most common problem is teens and children being accidentally exposed to this age inappropriate material, including illegal material because of misleading web addresses or preview sexual explicit material.

These are free teasers that they put out to try to get -- make no mistake about it, folks. The bottom line of this entire pornography industry on Internet is money. You take away the money, you take away the social acceptance of it, leading to the money, you won't have a problem anymore. Look what's happened to smoking. I almost feel sorry for smokers now. I wish I could get to the point where I felt sorry for pornographers, but I don't think I ever will.

So make no mistake about it, it's money. If I were you, I would check on every organization that opposes filtering and find out how much money do they get from the pornography industry. You'll be surprised perhaps at the connection. Anyway, the accidental exposure includes surfing in what appears to be a trustworthy area.

For instance, let's say recommended sites for young people, and I know of such a case, an organization that recommends out of the hundreds of thousands of sites, they recommend 13. That makes those 3 pretty special. One of them leads to what's really meant to be an adult website at Columbia University in New York, and when they put in a search engine word to look for information about -- perhaps they are allergic to animal products and they put in the word animal. Two of the top -- in fact the two top letters from the archives they will get are on bestiality, and they say not things like please avoid this activity, not only is it illegal across the country or it's dangerous or it's wrong. No, they make fun of it. They say, well, animals don't kiss and tell or, well, a lot of people think this is illegal, but you have to check the laws in your state. Maybe it's okay.

Guess which organization chose that as one of the top 3? The American Library Association. Now, they know that this problem exists because we brought it to their attention. Bob Marshall, who is an elected official in Virginia brought, it to their attention at the online summit in December. I checked just recently, and the problem is still there. Is everything they do wrong? No, no, no. Don't get it wrong, there is an awful lot of good that has been done by that organization. But somebody has lost their way on this issue of children and the Internet, and so I urge you to check the web sites of the variety of organizations. There is a lot of good help on Enough is Enough. For instance, they have the pornography definitions, all the different types of pornography. You can't make an informed decision about the subject without understanding what the legal terms mean.

Also this whole issue of Loudoun County. In my material, among other things, is a brief I made myself, it's not a legal brief, it's my own comments from our organization in support of Loudoun County. Look on the other side of it. The man who crafted the policy, who is himself an attorney, his phone number is on here. I urge you to talk to him and get it straight from him.

As far as Mainstream Loudoun, it's very interesting. If they truly were mainstream, you would think that their candidate would have been elected to the Virginia legislature. Guess who got elected? Dick Black, who crafted the policy. And by a fairly large majority. So watch out for terms that may need a little redefinition.

I would like to close my remarks, in addition to encouraging you to reading the specific kinds of comments I got, all these problems are unnecessary and unfortunate distractions from an otherwise marvelous educational tool.

I am so happy that we have the Internet. There must be a way to make it work right. They are not prevented by rules alone.

Acceptable use policies, I'm sorry, they do not work. I agree that librarians should not have to act as policemen. The lack of technology means that every library that has rules but no technology puts the librarian in exactly the position.

One of the problems they complain about is this is drawing a whole new clientele to our public libraries. These are people who don't care if you see them looking at hard core pornography, and when the librarian comes over and says, I'm sorry, sir, we're not allowed to access that site? He says, who's going to make e? I have every right or he might send it by pressing print to the librarians work station just to see what kind of reaction he gets, just to get a rise, and that's exactly the kind of complaints I'm getting. Technology is a necessity to protect the kids and preserve the environment of the library. Have we forgotten what the mission of the library is? It's not sexual titillation, I'm sorry. It may be constitutionally protected speech, much of it, but there is no constitutional guarantee that it will be free.

We have forgotten the whole issue is not censorship. These filters, and the rules that go with them, it is not an eraser. It's still out there. You walk out of your library complaining that you can't get a hold of Miss January, go home, look it up yourself. You still will find her. It's not an eraser. It's a gate. Machine problems can be adjusted, adapted, and erased. What goes into a minor's mind is much more difficult to adjust and adapt, and can never be erased.

In 1995 Primetime Live, which is not exactly known as a right-wing Christian whatever organization, found complaints among their own people about their children having strange sexual behavior, talk, tastes, you know. They got a chance to pick a video game. They took what Miss January looks like without her clothes on type of thing. They checked and found out these children had not been molested, they had merely been exposed to pornographic materials, and when they dug deeper, they found out that the younger the child, the reaction to pornography visually caused behavior in the child that was not different from being molested physically.

So I submit to you that exposing children, whether by accident or on purpose or because of some ideological stubbornness is mind molestation, and we need to address it as such. Some pornography is constitutionally protected speech, but there is no constitutional mandate to make that material freely available for adults, especially not at the expense of the kids.

As I said before, remember this, a filter is not an eraser. It's a gate. It does not precipitate censorship unless you accept a redefinition of that term as in disappears from the public accessibility. No. It disappears from the free public accessibility. But it's responsible sponsorship. This is the public money, and if you ask the public, the statistics are, they don't want to spend their money on

this stuff. A young mind is a terrible thing to molest. Please urge public schools and libraries to be more responsible, and follow the money. Where is the pornography money going? Can I answer any questions?

MS. CHALLINOR: I congratulate you on being so clear.

CHAIRPERSON SIMON: You're a powerful advocate.

MS. GOUNAUD: Well, I'm a musician by trade. I wrote musicals for children, and I never, ever expected to be involved in this issue, but I'm a she bear, too, and she bears protect their cubs and also the cubs of others, and I believe that the protection of children is a compelling government interest. It's also a compelling interest of all reasonable and responsible adults.

CHAIRPERSON SIMON: We certainly agree with you there, Karen. Comments or questions? Walter?

MR. ANDERSON: You give a very clear and articulate expression, but what I would like to say is I would hope that somewhere in all this we take pride out of the comments because the people at the ALA, whether you agree or disagree with their various positions are doing so sincerely, just as you are acting sincerely. As an attorney before started using language about pro censorship, in trying to create demons, demonize those who disagree, it's my fervent hope that we, in all the view get away from that, take away the pride of authorship, the pride of our positions, and I think that will lead to a compromise. I know we heard before from one executive that compromise was not possible, but I don't believe that's true. I think on reflection that executive will reconsider that position.

MS. GOUNAUD: Let me tell you why I was not going to mention anybody in particular because I did not want to be cantankerous, but let me tell you, at that online summit, you should have a copy of the electronic bill of rights because now I hear them saying that they're very much supportive of not having access to illegal pornography. I specifically before at least 00 witnesses asked MS. Croop, who is the head of the Intellectual Freedom Office, because she pointed out all the good things they're trying to do for children on the net, and it's true, there is a lot of really good material out there and I want that to be emphasized.

So I said, Great, I appreciate it. Now are you ready to rewrite the electronic bill of rights to agree to at least have some kind of rules, if not electronic fences, around, and I asked for only two categories that are already illegal. One was child pornography and one was illegal obscenity. And without taking a breath, she said no.

Now, if that's not their official position anymore, I'm very happy to hear that. I was very happy to hear Ann Symons talk about how she feels about illegal

material. I found Ann to be a very reasonable person. We have debated many times, and I would rather debate her than anyone else in the ALA, but I cannot not mention that because the kids are too important. I have seen children hurt. You see, I have a personal interest. I was sort of an adopted grandma for a little boy. We took in a single mom with a baby, you know, one of those that decided not to have an abortion. They say, what are you doing for them? Well, we took her in. He became like my grandchild. He was a beautiful, innocent little boy until his babysitter showed him a pornographic film that his mother didn't know was happening. A year later he started writing sexually explicit notes to a little girl in his first grade class. I get very upset when things like that happen, and I will hold any organization responsible no matter how big they are, how much money they have or how much good they've done, the same thing with Disney.

He's done a great deal, but he's now hurting families, and we will hold him responsible, we moms, we she bears, and so you're right, I will be very careful not to demonize them. I won't call them antifamily, even though I've been called, you know, pro-censorship. We're not. We're not for censorship. We're for responsible sponsorship.

MR. ANDERSON: Thank you.

CHAIRPERSON SIMON: Thank you very much, Karen. The third and final person to speak s Donna Rice Hughes. Donna from Enough is enough.

MS. HUGHES: Thank you. Good afternoon. I didn't realize when I came to hear my boss earlier, I thought I was signing in on a sign-in sheet and realized later that I was signing in to speak, so I thank you for the opportunity.

As a result, I don't have any prepared remarks. I just wanted to make myself available and share a little bit of my experience on this issue. I started with Enough is Enough about five years ago.

At that point the organization was focused strictly on illegal pornography in print and broadcast and sexually oriented businesses. Within about two weeks someone showed me the kind of material that children had access to on the Internet. At this point, this was the use-net user groups. I said to my boss, Dee, her name was Dee Jefson, I said children can access for free on the Internet what their adult parents cannot buy in a triple X-rated book store on the seedy side of town. This is unprecedented, can I explore it? She gave me the opportunity to do that, and as I explored further, I discovered they also had access to not only child pornography and obscenity, but also material that was harmful to minors, and as we explored that we discovered that there was a loophole in the law, that the same kinds of legal protections that protect children against material that's constitutionally protected for adults, like

Playboy, Penthouse types of pornography, those same types of protections did not extend in to cyberspace, and they still don't. With one exception.

We've just passed, Congress has just passed the Child Online Protection Act, and that was a very incremental step in extending the harmful to minors laws into cyberspace in one area, and that's the commercial web operators in this country.

Upon further exploration, once we became familiar with chat rooms and use net discussion groups, we also discovered that predators and pedophiles had unprecedented access to children. Now, the challenge was that the pornographers and the predators were way ahead of three separate groups -- the public, the technology community, who had developed this technology for good purposes, and the law enforcement community and governmental agencies and Congress.

So we set out to try to educate each of those groups, try to find ways to deal with this challenge, and I come before you today as the vice president of Enough is Enough. I've just authored a book called Kids Online: Protecting Your Children in Cyberspace.

I was called as one of two expert witnesses in the Loudoun County library case in favor of Loudoun County's position to exercise their choice without fear of intimidation of lawsuits, and I think inappropriate use of defending themselves with their funds.

And also as one who has probably given more than 1500 interviews on the subject, I served on the steering committee for the Internet online summit last December and had the opportunity of working with the Justice Department, the Department of Education, the American Library Association, Linda Wallace, and other nonprofit groups, and what we're trying to do here is build bridges, and I think that we can protect children on the Internet without sacrificing the First Amendment, and we have been working towards the implementation of the shared responsibility, and that is the public doing their part, the technology community doing their part, and the legal community doing their part.

Now, ideally when each segment is doing their part, it's balanced. Unfortunately right now the laws that protect children not only from child pornography but obscenity are not being adequately enforced, particularly the Internet obscenity laws, we haven't had one Internet obscenity prosecution.

That's why a child can innocently type in something like horses to get information on horseback riding, for instance, and get to information on horseback riding, but also get to bestiality. Those are some of the first sites that will come up because of lack of enforcement of law. Again that legal piece of

not being enforced, the laws that we currently have, and then again the loopholes in the law with respect to harmful to minors laws.

The second piece -- and that provides a very important barrier, if you will, for what ends up getting to the end consumer. Then when you take the technology piece, we've been working with the technology community to not only develop the tools for the end consumer, but to implement those tools themselves, in the forms of server-based filtering, for instance, the ISPs, many of them are starting to provide, like AOL, they have parental control, they don't have filtered service, but they offer that as an option for parents.

There are other ISPs who offer it throughout their entire service, and also encouraging those gatekeepers, if you will, to comply with current law. That is, remove child pornography and obscenity from your own boards and services that they have proprietary control over which includes use net use groups, by the way. And to find ways to segregate adult material, just as a form of family friendly policy, not because they're required to by law, but as a part of policy that they may want to consider adopting. But at the end of the day, most of the burden we still find is falling on the end user, whether it's the consumer, whether it's the employer and the employee in the workplace or whether it's the library or the school or the parent, and what we found in protecting children from some of these problems on the Internet is the implementation of rules and tools, and that software tools can't do it all by themselves nor can rules.

I'll tell you an incident that happened in my house the other day, and I wrote the first set of rules four years ago for Internet safety use for kids. My children know safety rules, but without tools, let me tell you what would have happened.

I have parental controls turned on, my child knows not to give out personal information, they know not to meet someone off line that they have met online, but they can be tricked. They're kids. My child was filling out some forms which he thought was okay, okay, to apply for schools, and as a result his E-mail address not out there, and he was receiving hundreds of what we call pornographic Spam E-mail messages. Now, fortunately, I had the tools in place. He wasn't able to open all of them but one, and I went through each one of them because had the tools in place. Even though I had taught the rules. And that combination, whether it's at home, whether it's in the workplace where employees know what they should be doing or not doing, whether it's playing tick-tack-toe or going to pornography sites or if it's in the school or the library, the rules without the tools are ineffective because of accidental access, and because of the way the pornographers and the predators are exploiting the technology, and hopefully as we continue to work with law enforcement and with Congress and with the technology community and trying to raise public awareness so that the end consumer understands what unrestricted access means and what children can be exposed to accidentally so that they can implement proper rules and tools, then we can, I think, see the Internet grow

and children become safer, if you will, online, but because the laws aren't being adequately enforced and a lot of this material is getting through, unfortunately the burden rests very much on the shoulders of the end consumer, and in this case the libraries, and I think that that's a sad thing.

CHAIRPERSON SIMON: Are you winding own?

MS. HUGHES: I'm winding down. Let me just conclude with, if libraries, whether they be in the school or public libraries can find a way, and I believe they can, with the choice of the types of flexibility software now provides and the combination of those tools with rules to extend the criteria for selecting content in the print media to the Internet, that that is right now an ideal situation given the current environment online, which can change hopefully as the laws get enforced and as the technology community, you know, picks up the ball and provides safer access.

CHAIRPERSON SIMON: Thank you, Donna. Comments or questions? We're reaching the end of the day, and Donna is our last person to testify. We certainly thank you. Walter? I know you have to take off. In that case, thank you very much. We've certainly learned a lot bout Enough is Enough today.

CHAIRPERSON SIMON: Commissioner Abramson has suggested that anyone who wishes to comment informally briefly he or she may do so. Joey?

MS. RODGER: Just one very quick thing, I want to thank you again for doing this and the thing that I felt particularly hopeful about as I read the paperwork coming before this was your desire to be helpful to the profession, and I think that the word practical was in there somewhere. I would urge you -- I don't envy you the task of kneading all this into a kind of dough that makes something, but I just celebrate your desire to be helpful to the library community. Thank you for it.

CHAIRPERSON SIMON: We appreciate those comments. In any event, we have time for comments from commissioners. Any final closing remarks? We can start with Rebecca Bingham.

MS. BINGHAM: I just want to thank everyone for their input. I think it's been tremendous. I think we have quite a challenge before us. I think it's one that we are going to conquer. We're capable of it, and we're going to collectively think.

CHAIRPERSON SIMON: José?

MS. GRIFFITHS: I had a number of comments I wanted to make. One of which is that we have to -- hopefully we'll gather information bout the extent to which there is really concern. I think there is a lot of concern in a lot of



instances that are not really exposed in the media in ways in which we would anticipate them. So my first concern is really getting some hard data on the extent to which we see the kinds of predatory approaches to children.

The second concern I had is we've heard a lot about filtering during today, and to me filters are simply the other side of the Commission, fee bow systems, they work exactly the same way, they work exactly the same way that most online library catalogs work. I have heard few people say, this is terrible, it doesn't work, for blocking. I think to some extent that that approach to filters is a little bit shortsighted. I think there are things that can be done in terms of restricting access to certain kinds of content, particularly content that is clearly and unequivocally illegal, it is child pornography, and we can identify that, any one of us can identify that there are also things that are obviously very good things on the net. I think we can identify that what I would hope to see is what, eventually if we can discern what's clearly very good from what we clearly don't want children to access, then we can start dealing with the middle ground. CHAIRPERSON SIMON: Joan Challinor.

MS. CHALLINOR: I would like to say until I came here today I had not considered the chat rooms, although I myself got into an almost unbelievably illegal chat room because I was in a sports chat room.

In other words, the chat room doesn't say what it is, and so I know exactly what people are talking about, and my whole inclination, everything I have is to protect our children. They are our future, and we're the adults, and if the adults don't protect the children, nobody will, and so I have listened all day. I think it's enormously informative, and I thank everybody for having come.

CHAIRPERSON SIMON: Walter?

MR. ANDERSON: I once asked my friend and mentor, Elliott Bizzell, whether his survival from Buchinwall had any meaning, and he said no, it's up to me to give my life meaning. Every person who spoke today, with the possible exception of the attorneys –

CHAIRPERSON SIMON: Go, Walter.

MR. ABRAMSON: Possible exception.

MR. ANDERSON: Isn't it interesting I don't have to go any further? Have you ever tried to get a yes or no from an attorney? It's not in their vocabulary. You ask them for a match, they give you a history of fire.

Anyway, every person who spoke today was sincere in their belief. The attorneys were passionate. The others were sincere. I think it's important to understand that, to discern the difference. Regardless of which side an attorney

is on, he is a paid advocate. If he is here in the middle of a case, he is here, he is arguing his case. Keep that in mind.

I'm not really interested in the attorneys. I can read their views elsewhere. I was very interested in hearing people who were actually in the field, and the turmoil they're going through, and a concern I have which I voiced earlier is the demonization of those who disagree, therein lies a great danger. Hell, I'm both pro choice and pro life. I believe people should be able to make choices, I believe in the sanctity of life. Now, you guys don't have a clue of what I believe about abortion. Now, the ALA has been criticized today and has attempted to defend its position, and you can see even in defense, at least I felt even in defense there was an unsureness, an unsteadiness of foot which indicated itself in its passion.

That's because all of us on every side of this issue are actually on the same side because we all care first about the kids, and that's our goal. We really do care about the children.

I heard someone mistakenly came up to Andrew Vachss as he was leaving today and said, I really enjoyed your talk, but I'm on the other side. So I'm not going to look up because I'll see the person, but I went over to the person later and I put my arm around them, and I said you don't really mean to say you're a pedophile, do you? That's the other side of this issue.

We do have a responsibility as part of the human species to our children, and it's not enough to live in the ether, to live in that ethereal world. We must help our children.

One of the suggestions I made to members of this Commission not too long ago when the subject arose, I said, I realize that many of you are talking about this expertly, but what I suggest is you go to the computer and call up a few words on the web, like sex, and see what you get, and it had a profound impact on the commissioners.

Now, I will conclude my comments by saying, I think some good will come out of this as long as the latitude of acceptance of the various people is open and real. If the position of the ALA is mutable, I guess that's the word, can't be moved, then the ALA will stand aside from librarians in the country. If their position is we believe in perfection and we're seeking perfection, it also means every library should have every book ever written, ever printed, which is not possible. Somewhere along the line librarians discern. Librarians discern, librarians make up American Library Association.

I think there is a reason and can be a reason within the position, even though there will be extremists there. Having said that, I want to close my own comments by saying this. There is nothing that I could have said here today

that would have been better, more full, ore complete than Andrew Vachss's discussion earlier today, and I would like to remind everybody that Andrew Vachss, unlike every other person in this room, his entire life, 100 percent of his time is devoted to children and their survival. That's it.

CHAIRPERSON SIMON: Thanks, Walter.

Brenda?

MS. GOULD: I feel a little bit like I'm picking my way through a minefield. As a practicing librarian, I've always believed in library bill of rights, I've always believed in access to information, but I also understand that libraries have policies, and we have selection policies, and we have selection procedures, and we can't have everything, but the rules of the game have changed now.

With the advent of cyberspace, with the advent of the Internet, and to coin a phrase from Linda Hooper when she made a presentation in Nevada, innocent images, which is the FBI program, you don't know that there isn't a dog at the other end. You don't know what's at the other end. I think that whether we like it or not, down the road there will have to be some kind of compromise. Is that an easy thing for me to say? No, it isn't. But it may be the only practical way that we can approach a problem and find a solution and protecting children is, I think, the most important thing that we have to face in terms of accessing information on the Internet.

I like the idea of libraries carrying selection policies and procedures into identifying good web sites that children and adults can use. We talked a great deal today about children and about pornography and about inappropriate material, and we do need to protect children, but there are also adults that can be offended, and adults that can be swayed by accessing inappropriate information or inappropriate material for their own personal reasons.

I would hope, as Walter said, we don't demonize those who may disagree with us and are willing to come to the table because we all want the same result, and that is libraries that are vital to a society that has come into the information age, and we don't want to cut off access to information, but at the same time there re protections that have to be put into place, and do I know how we're going to do that right now? I don't. Is it going to be easy? No. Are we going to have to compromise? Yes.

CHAIRPERSON SIMON: You were most eloquent, Martha. Today has been a good day for the National Commission on Libraries and Information Science. I'm coming you to, I'm just taking my turn. I'm a commissioner, too. I have not forgotten Abe Abramson.

MR. ABRAMSON: Never. You've never forgotten him.

CHAIRPERSON SIMON: I don't want to be last. I just want to be right now.

MR. ANDERSON: That's a big responsibility, Abe, you're getting the last word today.

MR. ABRAMSON: Could I trick her, she could get the last word.

CHAIRPERSON SIMON: Have we finished with this conversation? All right. I was going to say the PL 91-345 is just meant for this sort of thing that we've done today to have a hearing, to elicit information to try to come to some new ideas perhaps, and then to go home and sort it out and come up with some guidelines for the rest of us. What I really want to do is read a poem, and Joey Rodger gave me because I think it's so eloquent this is by Kenneth Rex Roth from the City of the Moon, it's a short one. Buddha took some autumn leaves in his hand and asked Amanda if these were all the red leaves there were. Amanda answered that it was autumn and leaves were falling all about them, more than ever could be numbered. So Buddha said, I've given you a handful of truths. Besides these, there are many thousands of other truths, more than can ever be numbered. I think that fits beautifully into what we've heard today.

Thank you much for that, Joey. Abe Abramson is next.

MR. ABRAMSON: I am often perceived as being pretty casual about most things. People that get to know me learn quickly that I'm not casual on the kind of issues that we're sharing today. So I have as much trouble on this issue. I hope no one has more trouble on this issue than I do. To paint a part of a picture here, I not only am a proud card carrying member of ACLU and ADA and at least two organizations who focus all of their energies on maintaining the separation of church and state after spending at least -- well, a full year in the monastery, but I also am a dues paying member of People for the American Way. That makes my job as a library trustee easier in some ways and more difficult in others.

I like the way the issue has been framed today. It's not an issue about censorship. In fact, my perspective that I've shared with some of the people on the Commission on filtering is that it's not really a censorship issue, it's an outsourcing issue, which is a professional concern of librarians more and more these days. I think that that's the way to approach the issue of filtering is it's a decision about outsourcing professional decisions. It's easy for me to say, I'm not a professional librarian, but that's the way I think it should be approached. As a library trustee, I will do anything to keep a library open. Libraries aren't required by law. I don't think in any state. They aren't in Montana. They're optional. Unlike schools. But as I say, some people think I'm a little flippant

on this but I actually do consider public libraries as a civic cathedrals of the arts and humanities.

CHAIRPERSON SIMON: Thanks, Abe. Thank you.

CHAIRPERSON SIMON: You can wind up, executive director.

MR. WILLARD: Well, since my earlier recommendation wasn't accepted --

CHAIRPERSON SIMON: You get the last word.

MR. WILLARD: Thank you. Well, I am delighted because as was remarked earlier, I began my career with this Commission or at least in current times as a member of the Commission. It was a source of great pride. Only exceeded by the pride I had in being selected by my fellow commissioners to assume the day-to-day managerial role. Putting together this, today's hearing was one of the first major assignments I had in that responsibility, and I guess as anybody who's involved in the nitty-gritty of something, I have a whole list of things that I wish we had done differently, I wish we had done better, but the bottom line is I think we've done a good job of getting what everyone has acknowledged to be a difficult issue well ventilated. I've used the phrase on occasion of the extremism of initial advocacy, and I believe strongly in that, that in order to frame issues you really have to set the far sides of both issues because that's how you get to the middle, and as Jeanne said in her remarks this morning, that's where we have to be, we have to come up with some compromise, and everybody has talked about that.

Our steps now from a very practical point of view are what now. We have an excellent record that has been created today, we have an open period during which additional comments, both from participants today and from those who will hear about this activity during the next 30 days can add to that record. As Joey Rodger pointed out, we did in our initial notification about this indicate that the end result we hope to be practical guidelines or librarians to deal with these issues, and as the Commission's stated position in bringing to the attention of the Congress our feelings about the restrictions that would have encumbered the library, Federal Library Funding Act, the Istook amendment, we took a strong position saying these really are not issues that need to be addressed by a sweeping Federal mandate, but rather by allowing flexibility and local decision making. So we do need to move forward putting the record that we've amassed today and will continue to build on. We have to put that into a forum that can meet the test of being practical guidelines for librarians.

We can never forget that the statute that established us calls on us, while it gives us broad latitude to provide policy advice to a whole host of entities, it does specifically target the president and the Congress as recipients of our policy formulations.

So in the next few months, as the commission as a group begins to digest, articulate what has come out of today's exercise, clearly policy recommendations to the highest policy-making fora will also ensue. The Commission meets next in Seattle. we will be meeting there the first Thursday and Friday of December. We then don't meet again until April, when we will meet in Ann Arbor just prior to the meeting of the ACRL. During that time I am sure we will, during the December meeting, rather, I'm sure we will have plenty of time to discuss as a collegial body the thoughts that today's exercise prompts, and clearly by the time of our next meeting in April we should be in a position to formally adopt a set of recommendations and a formal record resulting from today's activities.

We need also clearly -- there were a number of witnesses who pointed out that there needs to be additional research done. I'm fully supportive of that and I hope members of the Commission would be. And it's consistent with our long-standing function of collecting statistics and research information.

I think we also need to sharpen our understanding of some of the technological underpinnings. We've heard what has to be very strict statements that really have to have gradations. We don't want to see an cross-the-board ban on chat. We also heard in some of the testimony that followed the initial exploration of the chat issue about very positive dimensions of chat -- homework help, access to the public zoo. I think also we would be foolish if we didn't have a means of communication between people of different cultures, and I think there needs to be within the Internet a safe way of exploiting that marvelous opportunity. So we need to understand the technology better. We also have to acknowledge that the technology is a moving target, that the worldwide web I accessed this morning is going to be different tomorrow, and the technology that makes it function continues to change as you go from one level of HTML, for example, to the next or as you go from HTML to XML and as you get the imagination of the millions of people who are connected to and using this source as saying, hey, I could do it better, that the technology continues to expand and the benefits become the promise becomes, even better. But we have to be mindful of perils. and I think the Commission has set out in a great way to address this issue. Again, I am delighted to play some role in moving this forward.

CHAIRPERSON SIMON: I was going to have to call time on you, Bob. Thank you very much. With that we will conclude this hearing, and I thank the participants. I thank the Commission members. It has been a good day for all.

(Whereupon, at 4:18 p.m., the taking of the instant hearing ceased.)